

MONTANA LEGISLATIVE HISTORY

Chapter 523 1993

Bill H 482 S _____ Original bill & history ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) 2-12 _____ C

Hearing Date(s) 3-25 _____ C

out 2-15 _____ C

3-24 _____ C

H. Approp. 3-5 _____ C

_____ C

_____ C

_____ C

Date Out 3-5 _____ C

Date Out 3-27

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

3/18 HEARING
3/26 TABLED IN COMMITTEE

HB 480 INTRODUCED BY HARPER, ET AL.
ESTABLISH STATE PARKS MAINTENANCE TRUST FUND WITH
PERCENTAGE OF RESOURCE INDEMNITY TRUST FUND REVENUE

2/05	INTRODUCED		
2/05	REFERRED TO APPROPRIATIONS		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/09	HEARING		
2/09	FISCAL NOTE RECEIVED		
2/11	FISCAL NOTE PRINTED		
2/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/22	2ND READING DO PASS MOTION FAILED	46	54
2/23	MOTION FAILED TO RECONSIDER PREVIOUS ACTION AND PLACE BACK ON 2ND READING	45	54

HB 481 INTRODUCED BY WYATT
STANDARDIZE PERCENTAGE OF SIGNATURES REQUIRED FOR LOCAL
GOVERNMENT PETITIONS

2/05	INTRODUCED		
2/05	REFERRED TO LOCAL GOVERNMENT		
2/05	FIRST READING		
2/11	HEARING		
2/12	COMMITTEE REPORT—BILL PASSED		
2/12	PLACED ON CONSENT CALENDAR		
2/15	3RD READING PASSED	95	3
	TRANSMITTED TO SENATE		
2/20	FIRST READING		
2/20	REFERRED TO LOCAL GOVERNMENT		
3/18	HEARING		
3/26	COMMITTEE REPORT—BILL CONCURRED		
3/27	2ND READING CONCURRED	47	0
3/29	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE		
4/06	SIGNED BY SPEAKER		
4/07	SIGNED BY PRESIDENT		
4/08	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 319		
	EFFECTIVE DATE: 10/01/93		

HB 482 INTRODUCED BY BOHLINGER, ET AL.
PROVIDE FOR CIVIL CONTEMPT AND SUSPENSION OF STATE LICENSES
FOR FAILURE TO PAY SUPPORT

2/05	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/05	FISCAL NOTE REQUESTED		
2/11	FISCAL NOTE RECEIVED		
2/11	FISCAL NOTE PRINTED		
2/12	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/19	2ND READING PASSED	74	24
2/19	TAKEN FROM ENGROSSING AND REREFERRED TO APPROPRIATIONS		
3/10	COMMITTEE REPORT—BILL PASSED		

3/10	PLACED ON CONSENT CALENDAR		
3/11	OBJECTION FILED TO CONSENT CALENDAR POSTING; BILL PLACED ON SECOND READING		
3/12	2ND READING PASSED	68	31
3/15	3RD READING PASSED	66	32
	TRANSMITTED TO SENATE		
3/18	FIRST READING		
3/18	REFERRED TO JUDICIARY		
3/25	HEARING		
3/30	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/31	2ND READING CONCURRED AS AMENDED	49	0
4/01	3RD READING CONCURRED	45	3
	RETURNED TO HOUSE WITH AMENDMENTS		
4/06	2ND READING AMENDMENTS CONCURRED	74	24
4/12	3RD READING AMENDMENTS CONCURRED	78	22
4/20	SIGNED BY SPEAKER		
4/21	SIGNED BY PRESIDENT		
4/22	TRANSMITTED TO GOVERNOR		
4/24	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 523		
	EFFECTIVE DATE: 10/01/93		

HB 483 INTRODUCED BY TOOLE, ET AL.
 REQUIRE MORE THAN ONE DUI TEST, UNLESS FIRST TEST IS FOR
 ALCOHOL AND IS FAILED

2/05	INTRODUCED		
2/05	REFERRED TO JUDICIARY		
2/05	FIRST READING		
2/11	HEARING		
2/17	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/19	2ND READING PASSED	71	25
2/19	TAKEN FROM ENGROSSING AND REREFERRED TO APPROPRIATIONS		
3/03	TABLED IN COMMITTEE		
3/16	COMMITTEE REPORT—BILL PASSED		
3/25	2ND READING PASSED	87	11
3/25	3RD READING PASSED	88	11
	TRANSMITTED TO SENATE		
3/26	FIRST READING		
3/26	REFERRED TO HIGHWAYS & TRANSPORTATION		
4/06	HEARING		
4/07	TABLED IN COMMITTEE		
4/13	COMMITTEE REPORT—BILL CONCURRED		
4/14	2ND READING CONCURRED	37	10
4/15	3RD READING CONCURRED	34	13
	RETURNED TO HOUSE		
4/21	SIGNED BY SPEAKER		
4/23	SIGNED BY PRESIDENT		
4/23	TRANSMITTED TO GOVERNOR		
4/28	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 564		
	EFFECTIVE DATE: 10/01/93		

HB 484 INTRODUCED BY WISEMAN
 FUND SCIENCE AND TECHNOLOGY PROJECTS WITH COAL TAX TRUST
 FUND

2/05	INTRODUCED
2/05	REFERRED TO APPROPRIATIONS

HOUSE BILL NO. 482

INTRODUCED BY BOHLINGER, FAGG, KEATING, TOOLE, KADAS, KASTEN

IN THE HOUSE

FEBRUARY 5, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

FEBRUARY 17, 1993

COMMITTEE RECOMMEND BILL
DO PASS AS AMENDED. REPORT ADOPTED.

FEBRUARY 18, 1993

PRINTING REPORT.

FEBRUARY 19, 1993

SECOND READING, DO PASS.

FEBRUARY 20, 1993

ON MOTION, TAKEN FROM ENGROSSING AND
REREFERRED TO COMMITTEE
ON APPROPRIATIONS.

MARCH 10, 1993

COMMITTEE RECOMMEND BILL
DO PASS. REPORT ADOPTED.

POSTED ON CONSENT CALENDAR.

MARCH 11, 1993

OBJECTION FILED TO CONSENT CALENDAR
RECOMMENDATION.

ON MOTION, TAKEN FROM CONSENT
CALENDAR, PRINTED AND PLACED ON
SECOND READING.

MARCH 12, 1993

SECOND READING, DO PASS.

MARCH 13, 1993

ENGROSSING REPORT.

MARCH 15, 1993

THIRD READING, PASSED.
AYES, 66; NOES, 32.

MARCH 16, 1993

TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 18, 1993

INTRODUCED AND REFERRED TO COMMITTEE
ON JUDICIARY.

FIRST READING.

MARCH 30, 1993

COMMITTEE RECOMMEND BILL BE

CONCURRED IN AS AMENDED. REPORT
ADOPTED.

MARCH 31, 1993

SECOND READING, CONCURRED IN AS
AMENDED.

APRIL 1, 1993

THIRD READING, CONCURRED IN.
AYES, 45; NOES, 3.

RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 6, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 12, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 *House* BILL NO. *482*
 2 INTRODUCED BY *Jim Mocking* *Jazz* *Rating*
 3 *Rich Kaden Gialan*

4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CIVIL
 5 CONTEMPT FOR FAILURE TO PAY SUPPORT; REQUIRING EMPLOYERS,
 6 PAYORS, AND UNIONS TO REPORT HIRING INFORMATION TO THE
 7 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; PROVIDING
 8 A PATERNITY ACKNOWLEDGMENT PROCESS; PROVIDING FOR THE
 9 SUSPENSION OF STATE-ISSUED LICENSES FOR FAILURE TO PAY
 10 SUPPORT; AND AMENDING SECTIONS 40-5-403 AND 40-5-443, MCA."

11 STATEMENT OF INTENT

12 A statement of intent is required for this bill because
 13 [sections 4 and 12] require the department of social and
 14 rehabilitation services to adopt rules necessary for the
 15 implementation and administration of [sections 4 through
 16 11].

17 The rules may include provisions regarding:

- 18 (1) the provision of reimbursements to hospitals,
 19 institutions, and midwives for paternity acknowledgment
 20 costs;
 21 (2) the notice of intent to suspend licenses;
 22 (3) the hearing procedure used to review the cause for
 23 suspension of a license;
 24 (4) the approval of payment plans agreed to by obligors
 25

1 for payment of support debts;

2 (5) the determination of circumstances creating a
 3 hardship that warrant a stay of action for suspension of a
 4 license; and

5 (6) the procedures for implementing and enforcing an
 6 order suspending a license.
 7

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

9 NEW SECTION. Section 1. Failure to pay support --
 10 civil contempt. (1) For purposes of this section, "support"
 11 means child support; spousal support; health insurance,
 12 medical, dental, and optical payments; day care expenses;
 13 and any other payments due as support under a court or
 14 administrative order. Submission of health insurance claims
 15 is a support obligation if health insurance coverage is
 16 ordered.

17 (2) If a person obligated to provide support fails to
 18 pay as ordered, the payee or assignee of the payee of the
 19 support order may petition a district court to find the
 20 obligated person in contempt.

21 (3) The petition may be filed in the district court:

- 22 (a) that issued the support order;
 23 (b) of the judicial district in which the obligated
 24 person resides; or
 25 (c) of the judicial district in which the payee or

1 assignee of the payee resides or has an office.

2 (4) Upon filing of a verified petition alleging facts
3 constituting contempt of the support order, the district
4 court shall issue an order requiring the obligated person to
5 appear and show cause why the obligated person should not be
6 held in contempt and punished under this section.

7 (5) The obligated person is presumed to be in contempt
8 upon a showing that:

9 (a) there is a support order issued by a court or
10 administrative agency of this or another state with
11 jurisdiction to enter the order;

12 (b) the obligated person had actual or constructive
13 knowledge of the order; and

14 (c) the obligated person failed to pay support as
15 ordered.

16 (6) Certified payment records maintained by a clerk of
17 court or administrative agency authorized by law or by the
18 support order to collect support are admissible in a
19 proceeding under this section and are prima facie evidence
20 of the amount of support paid and any arrearages under the
21 support order.

22 (7) Following a showing under subsection (5), the
23 obligated person may move to be excused from the contempt by
24 showing clear and convincing evidence that the obligated
25 person:

1 (a) has insufficient income to pay the arrearages;

2 (b) lacks personal or real property that can be sold,
3 mortgaged, or pledged to raise the needed sum;

4 (c) has unsuccessfully attempted to borrow the sum from
5 a financial institution;

6 (d) has no other source, including relatives, from
7 which the sum can be borrowed or secured;

8 (e) does not have a valid out-of-court agreement with
9 the payee waiving, deferring, or otherwise compromising the
10 support obligation; or

11 (f) cannot, for some other reason, reasonably comply
12 with the order.

13 (8) In addition to the requirement of subsection (7),
14 the obligated person shall also show by clear and convincing
15 evidence that factors constituting the excuse were not
16 occasioned or caused by the obligated person voluntarily:

17 (a) remaining unemployed or underemployed when there is
18 employment suitable to the obligated person's skills and
19 abilities available within a reasonable distance from the
20 obligated person's residence;

21 (b) selling, transferring, or encumbering real or
22 personal property for fictitious or inadequate consideration
23 within 6 months prior to a failure to pay support when due;

24 (c) selling or transferring real property without
25 delivery of possession within 6 months prior to a failure to

1 pay support when due or, if the sale or transfer includes a
2 reservation of a trust for the use of the obligated person,
3 purchasing real or personal property in the name of another
4 person or entity;

5 (d) continuing to engage in an unprofitable business or
6 contract unless the obligated person cannot reasonably be
7 removed from the unprofitable situation; or

8 (e) incurring debts subsequent to entry of the support
9 order that impair the obligated person's ability to pay
10 support.

11 (9) If the obligated person is not excused under
12 subsections (7) and (8), the district court shall find the
13 obligated person in contempt of the support order. For each
14 failure to pay support under the order, the district court
15 shall order punishment as follows:

16 (a) 5 days incarceration in the county jail;

17 (b) 120 hours of community service work;

18 (c) a \$500 fine; or

19 (d) any combination of the penalties in subsections
20 (9)(a) through (9)(c).

21 (10) An order under subsection (9) must include a
22 provision allowing the obligated person to purge the
23 contempt. The obligated person may purge the contempt by
24 complying with an order requiring the obligated person to:

25 (a) seek employment and periodically report to the

1 district court all efforts to find employment;

2 (b) meet a repayment schedule;

3 (c) compensate the payee for the payee's attorney fees,
4 costs, and expenses for a proceeding under this section;

5 (d) sell or transfer real or personal property or
6 transfer real or personal property to the payee, even if the
7 property is exempt from execution;

8 (e) borrow the arrearage amount or report to the
9 district court all efforts to borrow the sum;

10 (f) meet any combination of the conditions in
11 subsections (10)(a) through (10)(e); or

12 (g) meet any other conditions that the district court
13 in its discretion finds reasonable.

14 (11) If the obligated person fails to comply with
15 conditions for purging contempt, the district court shall
16 immediately find the obligated person in contempt under this
17 section and impose punishment.

18 (12) A proceeding under this section must be brought
19 within 3 years of the date of the last failure to comply
20 with the support order.

21 **Section 2.** Section 40-5-403, MCA, is amended to read:

22 **"40-5-403. Definitions.** As used in this part, the
23 following definitions apply:

24 (1) "Alternative arrangement" means a written agreement
25 signed by the obligor and obligee, and signed by the

department in the case of an assignment of rights under 53-2-613, that has been approved and entered in the record of the court or administrative authority issuing or modifying the support order.

(2) "Department" means the department of social and rehabilitation services provided for in 2-15-2201.

(3) "Income" means any form of periodic payment to a person, including earnings and wages. However, income does not include:

(a) any amount required by law to be withheld, other than creditor claims, including federal, state, and local taxes and social security; and

(b) any amounts exempted from judgment, execution, or attachment by federal or state law.

(4) "Obligee" means either a person to whom a duty of support is owed or a public agency of this or another state to which a person has assigned the right to receive current and accrued support payments.

(5) "Obligor" means a person who owes a duty to make payments under a support order.

(6) "Payor" means any payor of income to an obligor on a periodic basis and includes any person, firm, corporation, association, employer, trustee, political subdivision, state agency, or any agent thereof, who is subject to the jurisdiction of the courts of this state under Rule 4B of

the Montana Rules of Civil Procedure.

(7) "Support order" means an order of the district court of the state of Montana, an order of a court of appropriate jurisdiction of another state, an administrative order established pursuant to proceedings under part 2 of this chapter, or an order established by administrative hearing process of an agency of another state with functions similar to those of the department set forth in part 2 of this chapter, that provides a set and determinable amount for temporary or final periodic payment of funds for the support of a child. Support order further includes the following:

(a) an order for reimbursement of public assistance money paid by a public agency for the benefit of a minor child;

(b) an order for maintenance to be paid to a former spouse when the former spouse is the custodial parent of a child for whom child support is awarded under the same order; and

(c) an order requiring payment of interest due on unpaid judgments for child support.

(8) "Union" means a labor union, union local, union affiliate, or union hiring hall."

Section 3. Section 40-5-443, MCA, is amended to read:

"40-5-443. Payors to provide information -- exemption

1 from liability. (1) Upon notice by the department and except
 2 as provided in subsections (2) and (3), an employer or payor
 3 doing business in this state shall report to the department:

4 (a) the hiring of an individual who resides or works in
 5 this state;

6 (b) a contract or subcontract with an individual who
 7 resides or works in this state; and

8 (c) the rehiring or return to work of an employee,
 9 contractor, or subcontractor.

10 (2) An employer is not required to report the hiring of
 11 an individual who the employer anticipates will be employed
 12 for less than 1 month or will be sporadically employed for
 13 less than 350 hours during any 6-month period.

14 (3) An employer or payor is not required to report
 15 under this section if the employer employs or contracts with
 16 fewer than 10 persons.

17 (4) A union operating in this state shall, upon notice
 18 by the department, provide the department with information
 19 concerning the employment of its members.

20 (5) An employer, payor, or union required to report
 21 under this section shall submit to the department monthly
 22 reports containing its name, address, and employment
 23 security reference number or unified business identifier
 24 number and the name, last-known residential address, social
 25 security number, and date of birth of each employee that was

1 hired or rehired or that returned to work during the
 2 preceding month. The report may be made in writing or by
 3 computer on a form or in a format supplied by the department
 4 or by other means acceptable to the department.

5 (6) The department may retain the reported information
 6 concerning an employee, contractee, or member only if the
 7 department is responsible for establishing, enforcing, or
 8 collecting a support obligation of that person. If the
 9 person does not owe a support obligation, the department may
 10 not create a record regarding the person and the information
 11 must be promptly destroyed.

12 ~~{1}~~ (7) For-the-purposes-of-this-part, upon Upon written
 13 request by the department, a present or former employer,
 14 payor, or former payor and any labor or union of which the
 15 obligor a person is or may have been a an employee,
 16 contractee, or member shall provide the department with the
 17 following information, if known, regarding the obligor
 18 person:

19 (a) last-known residential address;

20 (b) social security number;

21 (c) dates of employment or union membership or dates of
 22 the term of the contract;

23 (d) amounts of wages, salaries, commissions, and other
 24 earnings paid to the obligor person during any period when
 25 the department provided support enforcement services; and

(e) whether health insurance coverage is or was available to the obligor person and the person's children through the employer, payor, or union and, if so:

(i) the name of the insurer or health care provider;

(ii) the policy numbers or other identifiers; and

(iii) the persons covered;

(f) the location of the job site; and

(g) any occupational or professional affiliations or licenses required for the employment or contract.

(8) The department shall give an employer, payor, or union failing to report as required by this section a written warning. Upon further failure to report, the department may impose a civil penalty not to exceed \$1,000 for each month for each reportable person. The department shall adopt rules, under Title 2, chapter 4, and 40-5-405, stating administrative hearing and other procedures implementing this subsection.

(9) To cover the report costs, an employer, payor, or union required to report under this section may charge and withhold from the wages or other income of each reported person a fee not to exceed \$5 for each report covering the person.

(10) A An employer, payor, or union who discloses information to the department in compliance with this section is exempt from any liability to the obligor reported

person that may result from such the disclosure."

NEW SECTION. Section 4. Paternity acknowledgment. (1)

Upon the birth of a child to a woman unmarried at the time of birth, the administrator or person in charge of a hospital or other institution in which the birth occurs or the midwife who attends the birth shall:

(a) provide an opportunity for the child's mother and alleged father to complete an acknowledgment of parentage pursuant to 40-6-105;

(b) provide written information, furnished by the department, describing the rights and responsibilities of parentage, the benefits of having a child's paternity established, and the child's right to receive support; and

(c) forward a copy of an acknowledgment signed by the mother and the father to the department.

(2) The hospital, institution, or midwife is entitled to reimbursement for reasonable costs of obtaining an acknowledgment. The department shall establish by rule the amount of reasonable costs, not to exceed the amount for which federal financial participation is available, and the procedures for claiming reimbursement.

(3) Hospitals, institutions, and midwives shall use forms prescribed by the department for the acknowledgment of paternity.

NEW SECTION. Section 5. Definitions. As used in

{sections 5 through 12], the following definitions apply:

(1) (a) "Child" means:

(i) a person under 18 years of age who is not emancipated, self-supporting, married, or a member of the armed forces of the United States;

(ii) a person under 19 years of age who is still in high school;

(iii) a person who is mentally or physically incapacitated when the incapacity began prior to that person reaching 18 years of age; and

(iv) in IV-D cases, a person for whom:

(A) support rights are assigned under 53-2-613;

(B) a public assistance payment has been made;

(C) the department is providing support enforcement services under 40-5-203; or

(D) the department has received a referral for interstate services from an agency of another state under the provisions of the Uniform Reciprocal Enforcement of Support Act or under Title IV-D of the Social Security Act.

(b) The term may not be construed to limit the ability of the department to enforce a support order according to its terms when the order provides for support extending beyond the time the child reaches 18 years of age.

(2) "Delinquency" means a support debt or support obligation due under a support order in an amount greater

than or equal to 6 months' support payments as of the date of service of a notice of intent to suspend a license.

(3) "Department" means the department of social and rehabilitation services.

(4) "IV-D case" means a case in which the department is providing support enforcement services as a result of:

(a) an assignment of support rights under 53-2-613;

(b) a payment of public assistance;

(c) an application for support enforcement services under 40-5-203; or

(d) a referral for interstate services from an agency of another state under the provisions of the Uniform Reciprocal Enforcement of Support Act or under Title IV-D of the Social Security Act.

(5) "License" means a license, certificate, registration, or authorization issued by an agency of the state of Montana granting a person a right or privilege to engage in a business, occupation, or profession or any other right or privilege that is subject to suspension, revocation, forfeiture, or termination by the licensing authority prior to its date of expiration.

(6) "Licensing authority" means any department, division, board, agency, or instrumentality of this state that issues a license.

(7) "Obligee" means:

1 (a) a person to whom a support debt or support
2 obligation is owed; or

3 (b) a public agency of this or another state that has
4 the right to receive current or accrued support payments or
5 that is providing support enforcement services under this
6 chapter.

7 (8) "Obligor" means a person who owes a duty of
8 support.

9 (9) "Order suspending a license" means an order issued
10 by a support enforcement entity to suspend a license. The
11 order must contain the name of the obligor, the type of
12 license, and, if known, the social security number of the
13 obligor.

14 (10) "Payment plan" includes but is not limited to a
15 plan approved by the support enforcement entity that
16 provides sufficient security to ensure compliance with a
17 support order and that incorporates voluntary or involuntary
18 income withholding under part 3 or 4 of this chapter or a
19 similar plan for periodic payment of a support debt and, if
20 applicable, current and future support.

21 (11) "Support debt" or "support obligation" means the
22 amount created by:

23 (a) the failure to provide support to a child under the
24 laws of this or any other state or a support order; or

25 (b) a support order for spousal maintenance if the

1 judgment or order requiring payment of maintenance also
2 contains a judgment or order requiring payment of child
3 support for a child for whom the person awarded maintenance
4 is the custodial parent.

5 (12) "Support enforcement entity" means:

6 (a) in IV-D cases, the department; or

7 (b) in all other cases, the district court that entered
8 the support order or a district court in which the support
9 order is registered.

10 (13) "Support order" means an order providing a
11 determinable amount for temporary or final periodic payment
12 of a support debt or support obligation issued by:

13 (a) a district court of this state;

14 (b) a court of appropriate jurisdiction of another
15 state, an Indian tribe, or a foreign country;

16 (c) an administrative agency pursuant to proceedings
17 under Title 40, chapter 5, part 2; or

18 (d) an administrative agency of another state with a
19 hearing function and process similar to those of the
20 department.

21 **NEW SECTION. Section 6.** Notice of intent to suspend
22 license. (1) Upon the petition of an obligee alleging the
23 existence of a delinquency, a support enforcement entity may
24 issue a notice of intent to suspend a license.

25 (2) The notice must be served upon the obligor

1 personally or by certified mail and may:

2 (a) in a IV-D case, be incorporated into any notice
3 served under Title 17, chapter 4, part 1, or Title 40,
4 chapter 5, part 2 or 4;

5 (b) in all other cases, be combined with any other
6 enforcement proceeding.

7 (3) The notice must state that the obligor's license
8 will be suspended 60 days after service unless within that
9 time the obligor:

10 (a) pays the entire support debt stated in the notice;

11 (b) enters into a payment plan approved by the support
12 enforcement entity; or

13 (c) appears and shows cause in a hearing before the
14 support enforcement entity under [section 7] that suspension
15 of a license is not appropriate.

16 (4) In a IV-D case, the notice must advise the obligor
17 that hearings conducted under [section 7] are subject to the
18 contested case provisions of the Montana Administrative
19 Procedure Act.

20 NEW SECTION. Section 7. Hearing -- order suspending
21 license. (1) To show cause why suspension of a license would
22 not be appropriate, the obligor shall request a hearing from
23 the support enforcement entity that issued the notice of
24 intent to suspend the license. The request must be made
25 within 60 days of the date of service of the notice.

1 (2) Upon receipt of a request for hearing from an
2 obligor, the support enforcement entity shall schedule a
3 hearing for the purpose of determining if suspension of the
4 obligor's license is appropriate. The support enforcement
5 entity shall stay suspension of the license pending the
6 outcome of the hearing.

7 (3) The only issues that may be determined in a hearing
8 under this section are the amount of the support debt or
9 support obligation, if any, whether or not a delinquency
10 exists, and whether or not the obligor has entered into a
11 payment plan.

12 (4) If an obligor fails to respond to a notice of
13 intent to suspend a license, fails to timely request a
14 hearing, or fails to appear at a regularly scheduled
15 hearing, the obligor's defenses, objections, or request for
16 a payment plan must be considered to be without merit and
17 the support enforcement entity shall enter a final decision
18 and order accordingly.

19 (5) If the support enforcement entity determines that
20 the obligor owes a delinquency and that the obligor has not
21 entered into a payment plan, the support enforcement entity
22 shall issue an order suspending the obligor's license and
23 ordering the obligor to refrain from engaging in the
24 licensed activity. The support enforcement entity shall send
25 a copy of the order suspending a license to the licensing

1 authority and the obligor.

2 (6) The determinations of the department under this
3 section are a final agency decision and are subject to
4 judicial review under 40-5-253 and the Montana
5 Administrative Procedure Act.

6 (7) A determination made by the support enforcement
7 entity under [sections 5 through 12] is independent of any
8 proceeding of the licensing authority to suspend, revoke,
9 deny, terminate, or renew a license.

10 NEW SECTION. Section 8. Suspension, denial, and
11 nonrenewal of licenses. (1) Upon receipt of an order
12 suspending a license, a licensing authority shall implement
13 the suspension of the license by:

14 (a) determining if it has issued a license to the
15 obligor whose name appears on the order;

16 (b) entering the suspension on the appropriate records;

17 (c) reporting the suspension as appropriate; and

18 (d) if required by law, demanding surrender of the
19 suspended license.

20 (2) An order issued by a support enforcement entity
21 under [section 7] suspending a license must be processed by
22 the licensing authority without an additional review or
23 hearing by the licensing authority concerning suspension of
24 the license.

25 (3) During the term of a suspension under [sections 5

1 through 12], the licensing authority may not issue or renew
2 the obligor's license.

3 (4) Notwithstanding the provisions of any other law
4 setting terms of suspension, revocation, denial,
5 termination, or renewal of a license, an order issued by a
6 support enforcement entity suspending a license continues
7 until the support enforcement entity advises the licensing
8 authority that the suspension has been stayed or terminated.

9 (5) In the event that a license is suspended, any funds
10 paid by the obligor to the licensing authority for costs
11 related to issuance, renewal, or maintenance of a license
12 may not be refunded to the obligor.

13 (6) Unless an order staying suspension of a license is
14 in effect, an obligor who continues to engage in the
15 business, occupation, profession, or other licensed activity
16 while the license is suspended under this section is guilty
17 of a misdemeanor and upon conviction shall be punished by a
18 fine of not less than \$250 or more than \$500 or by
19 imprisonment in the county jail for a term not to exceed 6
20 months, or both. Upon conviction of a second or subsequent
21 violation, the obligor shall be punished by a fine of not
22 less than \$500 or more than \$2,000 or by imprisonment in the
23 county jail for a term not to exceed 1 year, or both. The
24 support enforcement entity or the licensing authority may
25 elect the remedy under this section or any other remedy

provided for engaging in a licensed activity without a license or while the license is suspended.

(7) The licensing authority is exempt from liability to the licensee for activities conducted in compliance with [sections 5 through 12].

(8) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the support enforcement entity suspending a license.

NEW SECTION. Section 9. Stay of suspension of license
-- payment plan -- hardship. (1) An obligor may at the time of the hearing conducted under [section 7] or at any time after the hearing petition the support enforcement entity for an order staying suspension of the license.

(2) The support enforcement entity shall consider the obligor's petition for a stay separately from any determination on whether suspension of a license is appropriate.

(3) The support enforcement entity may stay suspension of a license upon a showing that suspension or continued suspension of a license would create a significant hardship to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor.

(4) A stay terminates upon:

(a) termination of the circumstances upon which a hardship is based;

(b) failure by the obligor to abide by the terms and conditions of a payment plan; or

(c) the date of termination, if any, provided in the order staying suspension of the license.

(5) If the licensing authority has been notified of an order suspending a license, the support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the licensing authority and the obligor.

(6) (a) Upon receipt of an order staying or reinstating suspension of the license, the licensing authority shall:

(i) enter the information on appropriate records;

(ii) report the action as appropriate; and

(iii) demand surrender of the suspended license or return the reinstated license.

(b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of suspension of the license.

NEW SECTION. Section 10. Termination of order to suspend license. (1) When the support enforcement entity determines that the support debt or support obligation is paid in full, it shall terminate the order suspending the license. The support enforcement entity shall send a copy of

1 the order terminating the suspension of the license to the
2 licensing authority and the obligor.

3 (2) Entry of an order terminating suspension of a
4 license does not limit the ability of a support enforcement
5 entity to issue a new order suspending the license of the
6 same obligor in the event of another delinquency.

7 NEW SECTION. Section 11. Fees. A licensing authority
8 subject to [sections 5 through 12] may charge the obligor a
9 fee to cover the administrative costs incurred by the
10 licensing authority under [sections 5 through 12].

11 NEW SECTION. Section 12. Rulemaking authority. The
12 department shall adopt rules necessary for the
13 implementation and administration of [sections 5 through
14 11].

15 NEW SECTION. Section 13. Codification instruction. (1)
16 [Section 4] is intended to be codified as an integral part
17 of Title 50, chapter 15, part 2, and the provisions of Title
18 50, chapter 15, apply to [section 4].

19 (2) [Sections 5 through 12] are intended to be codified
20 as an integral part of Title 40, chapter 5, and the
21 provisions of Title 40, chapter 5, apply to [sections 5
22 through 12].

23 NEW SECTION. Section 14. Coordination instruction. If
24 both Senate Bill No. 217 and [this act], containing
25 [sections 5 through 12], are passed and approved, Senate

1 Bill No. 217 is void.

2 NEW SECTION. Section 15. Severability. If a part of
3 [this act] is invalid, all valid parts that are severable
4 from the invalid part remain in effect. If a part of [this
5 act] is invalid in one or more of its applications, the part
6 remains in effect in all valid applications that are
7 severable from the invalid applications.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0482, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act providing for civil contempt for failure to pay support; requiring employers, payors and unions to report hiring information to the Department of Social and Rehabilitation Services (SRS); providing a paternity acknowledgment process; providing for the suspension of state-issued licenses for failure to pay support.

ASSUMPTIONS:

1. The executive budget contains sufficient resources for the program to absorb these duties.
2. Additional costs to the Child Support Enforcement Division (CSED) will be negligible.
3. Increased collections to the CSED may result in a cost savings to the AFDC and GA programs. The magnitude of the savings is unmeasurable.
4. Caseload levels are anticipated to be:

	<u>FY94</u>	<u>FY95</u>
a. Civil Contempt Cases	8	34
b. License Suspension Cases	15	69
c. Employer Reporting Cases	1,169	5,337
d. Hospital Paternity Cases	232	1,061

5. Collections of child support are expected to increase \$368,816 in FY94 and \$1,767,948 in FY95.

FISCAL IMPACT: The fiscal impact cannot be determined without knowing how the increased collections will impact AFDC and GA.

 2-11-93

DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 2-11-93
JOHN BOHLINGER, PRIMARY SPONSOR DATE

Fiscal Note for HB0482, as introduced

HB 482

COMMITTEE--HOUSE JUDICIARY

Page 5

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE ----- REREFERRED ---- DATE READ

HB0433	ELLIS, JR., ALVIN	CLARIFY TYPES OF ANIMALS IN RACES CONDUCTED BY BARS -- SPORTS POOLS ON RACES							
	2/02	2/10		PASS AS AMENDED	2/13	VOTE: 11-6			2/17
HB0466	MILLS, NORM	LIMIT BROKER LIABILITY FOR ASSOCIATE							
	2/04	2/11		TABLED ON	02/16	VOTE: 11-6			
HB0468	RICE, JIM	PREFERENCE FOR COMMITMENT TO DEPT. CORRECTIONS, NOT STATE PRISON							
	2/04	2/11		DO PASS	2/11	VOTE: 16-1			2/15
HB0482	BOHLINGER, JOHN	CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; SUSPENSION OF STATE LICENSES							
	2/05	2/12		PASS AS AMENDED	2/15	VOTE: 12-6	APPROPRIATIONS		2/17
HB0483	TOOLE, HOWARD	REQUIRE MORE THAN ONE DUI TEST, UNLESS 1ST TEST IS FOR ALCOHOL & IS FAILED							
	2/05	2/11		PASS AS AMENDED	2/13	VOTE: 13-4	APPROPRIATIONS		2/17
HB0487	BRANDEWIE, RAY	CONST. AMEND. TO ALLOW LEGISLATURE TO SET CRITERIA FOR WORK COMP BENEFITS							
	2/13	2/17		PASS AS AMENDED	2/18	VOTE: 13-4			2/19
HB0496	WYATT, DIANA	REVISE THE MONTANA HUMAN RIGHTS LAWS							
	2/05	2/12		PASS AS AMENDED	2/18	VOTE: 10-8			2/15
HB0499	COBB, JOHN	REVISE BOARD OF BAR EXAMINERS							
	2/05	2/12		DO PASS	2/12	VOTE: 17-0			2/15
HB0502	BARNETT, JOE	REVISE BAIL FORFEITURE & REQUIRE RETURN OF BOND WITHIN 30 DAYS OF CONVICTION							
	2/05	2/11		PASS AS AMENDED	2/13	VOTE: 17-1			2/17
HB0506	TASH, BILL	ALLOW NONPROFIT RAFFLE FOR LAND WORTH MORE THAN \$5,000							
	2/06	2/16		DO PASS	2/16	VOTE: 17-1			2/17
HB0507	SAYLES, TIM	CREATE OFFENSE OF ASSAULT ON A SPORTS OFFICIAL							
	2/06	2/16		PASS AS AMENDED	2/18	VOTE: 10-8			2/19
HB0518	WHALEN, TIM	PROHIBIT POLITICAL USE OF HEALTH CARE INFORMATION							
	2/08	2/16		PASS AS AMENDED	2/18	VOTE: 17-1			2/19

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on February 12, 1993,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chairman (R)
Rep. Randy Vogel, Vice Chairman (R)
Rep. Dave Brown, Vice Chairman (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: Rep. Angela Russell

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB's: 482, 335, 228, 496, 499
Executive Action: HB's: 411, 499, 496, 346, 157

HEARING ON HB 482

Opening Statement by Sponsor:

REP. JOHN C. BOHLINGER, House District 94, Billings, introduced
this bill to provide for civil contempt for failure to pay child
support and presented testimony describing child support problems

and issues. EXHIBITS 1 and 2.

Proponents' Testimony:

Mary Ann Wellbank, Administrator, Child Support Enforcement Services, Department of Social and Rehabilitation Services, presented written testimony. EXHIBIT 3

Diana Wertsuk, Interdepartmental Coordinating Committee for Women, presented written testimony. EXHIBIT 4

Opponents' Testimony:

Wilbur Johnson, a father trying to pay child support, presented written testimony. EXHIBIT 5

Questions From Committee Members and Responses:

REP. BOB CLARK asked Ms. Wellbank whether any other states currently have similar legislation. Ms. Wellbank said that Alaska, Minnesota, and Wisconsin have employer reporting laws. The occupational license restriction is in effect in many states, three of which are Massachusetts, Arizona and California. REP. CLARK asked if any states have a reciprocal child support agreement, and Ms. Wellbank said the state of Montana is required to work with all states.

REP. KARYL WINSLOW asked Ms. Wellbank to discuss the staffing that may be involved, as this is a far-reaching piece of legislation. Ms. Wellbank said the Department of Social and Rehabilitation Services (SRS) currently has an administrative staff in place. SRS's current budget has money for contracted services. Thirty-three contract service FTE have been requested.

REP. ELLEN BERGMAN asked how this bill will be enforced, and John McCray, Staff Attorney, SRS, said that currently 25% of children are born to single parents, and one-half of the 25% end up on welfare. The intent of this bill is to attach responsibility where it belongs, and it provides additional opportunity to require employers to report to Child Support Enforcement Services the names of people who may have previously worked with many employers. Monthly recording requirements will provide a continual flow of information, and these people will be identified in a timely manner to help make an annual payment. The heart of this bill is to allow the suspension of any state-issued license for failure to pay support.

Closing by Sponsor:

REP. BOHLINGER provided letters of testimony from single mothers

who are owed child support. EXHIBIT 6

HEARING ON HB 335

Opening Statement by Sponsor:

REP. HOWARD TOOLE, House District 60, Missoula, presented written testimony. EXHIBIT 7

Proponents' Testimony:

Mary Ann Wellbank, Administrator, Child Support Enforcement Services, SRS, presented written testimony. EXHIBITS 8, 9, 10 and 11.

Peter S. Blouke, Ph.D., Director, SRS, presented written testimony. EXHIBIT 12

George Bennett, Montana Bankers Association, presented written testimony. EXHIBIT 13

Roger Tippy, Montana Independent Bankers, presented written testimony. EXHIBIT 14

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. WINSLOW asked REP. TOOLE if this bill was the result of a study carried out by Child Support Enforcement Services (CSES). REP. TOOLE said the bulk of his bill is the result of an ongoing administrative review of procedures. REP. TOOLE offered amendments to address the privacy question.

REP. WINSLOW asked Ms. Wellbank if the CSES has done a study to explain the overall impact. Ms. Wellbank said that a nationwide study of 38,000 child support cases identified key problems.

REP. DUANE GRIMES referred to amendment number 2 of Mr. Tippy's amendments; he was concerned about the order for subpoena, as a subpoena comes out of the court. REP. TOOLE intends that these amendments implement a change to an order rather than a request. Parents will not be subpoenaed; they will be served by mail.

REP. VIVIAN BROOKE asked REP. TOOLE whether continuing to protect financial institutions will eliminate the protection of children. REP. TOOLE replied that, while the right to privacy is a strong right, the right to support for the benefit of children is also very strong. The intention of this bill is to implement the policy that the person who hides his assets will be obligated to

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

Sept 12, 93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell			✓
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

wp.rollcall.man

CS-09

opening Statement
Rep. John Bohlinger

DATE 2-12-93
HB 482

MY AWARENESS OF THE NEED FOR HOUSE BILL 482 CAME ABOUT DURING MY CAMPAIGN EFFORT, AND THROUGH THE CONVERSATIONS I HAD WITH THE PEOPLE OF HOUSE DISTRICT 94. FOR THOSE OF YOU WHO DON'T KNOW THE DEMOGRAPHICS OF MY DISTRICT, LET ME TELL YOU IT IS THE NORTH EAST PART OF THE OLD PART OF BILLINGS. IT INCLUDES MUCH OF THE CENTRAL BUSINESS DISTRICT, THE HOSPITAL CORRIDOR AND EASTERN MONTANA COLLEGE. LIKE MOST OLDER PARTS OF TOWN THERE ARE NEIGHBORHOODS THAT OFFER INEXPENSIVE HOUSING, AND I FOUND THAT IN MANY OF THESE HOMES ARE SINGLE WOMEN, LIVING WITH THEIR CHILDREN, IN POVERTY, BECAUSE THEY HAVE BEEN FINANCIALLY ABANDONED BY THEIR HUSBANDS OR THE FATHERS OF THEIR CHILDREN: BECAUSE OF THIS SITUATION THEY ARE FORCED TO LIVE EITHER ON WHAT FINANCIAL HELP THEIR FAMILIES CAN PROVIDE OR THEY ARE FORCED TO RELY ON OUR WELFARE SYSTEM. IN EITHER CASE THEY HAVE LOST SOMETHING OF THEIR DIGNITY, AND SENSE OF SELF WORTH.

THE CHILD SUPPORT ENFORCEMENT DIVISION OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS THE AGENCY OF STATE GOVERNMENT THAT IS RESPONSIBLE FOR ASSISTING THESE PEOPLE IN THEIR EFFORTS TO COLLECT THE COURT ORDERED CHILD SUPPORT PAYMENTS. LAST YEAR THEY DEALT WITH 41,000 SINGLE PARENTS. IN 1988 THEY WERE DEALING WITH 15,000 PEOPLE, THAT'S AN INCREASE OF 26,000 OR 175% MORE CASES IN 5 YEARS, AND THE CASELOAD WORK IS GROWING AT THE RATE OF ABOUT 500 A MONTH.

WHEN THE COURT ORDERS A PARENT TO MAKE CHILD SUPPORT PAYMENTS, AND THE PARENT EITHER IGNORES THE COURT ORDER OR FINDS HIMSELF UNABLE TO MEET THE OBLIGATION, THE STATE OF MONTANA THEN BECOMES THE SOURCE OF SUPPORT FOR THIS FAMILY. THE PARENTS WHO AREN'T

PAYING ARE COSTING THE STATES HUNDREDS OF THOUSANDS OF DOLLARS. LAST YEAR THE 41,000 CASES THE CHILD SUPPORT ENFORCEMENT DIVISION DEALT WITH HAD A VALUE OF \$100 MILLION IN MONEY'S OWED TO MONTANA CHILDREN. LAST YEAR THE CHILD SUPPORT SERVICES COLLECTED ABOUT \$20 MILLION IN LATE CHILD SUPPORT, AND A LITTLE OVER ONE HALF OF THE PARENTS WHO ASK THE DIVISION FOR HELP ARE ON WELFARE. IT HAS BECOME APPARENT THAT THE PRESENT LAWS DEALING WITH DELINQUENT PARENTS ARE NOT WORKING, AND CONSEQUENTLY THE STATE OF MONTANA HAS HAD TO PROVIDE THE FINANCIAL AID TO THESE FAMILIES. LET ME GIVE YOU AN OVERVIEW OF THE PROVISIONS OF MY BILL.

FIRSTLY WE WANT TO ESTABLISH PATERNITY. THE ISSUE OF PATERNITY ESTABLISHMENT HAS BEEN RECOGNIZED BY THE OFFICE OF CHILD SUPPORT ENFORCEMENT AS A MAJOR CONCERN. THE SHEER INCREASE IN THE NUMBERS OF CHILDREN BEING BORN OUTSIDE OF MARRIAGE DURING THE LAST 30 YEARS HAS COMMANDED ATTENTION. NEARLY 25% OF THE CHILDREN BORN IN MONTANA ARE BORN TO SINGLE PARENTS. CHILDREN OF NON MARRIED PARENTS NEED TO KNOW WHO THEIR PARENTS ARE. PARENTAGE DETERMINATION DOES MORE THAN PROVIDE GENEALOGICAL CLUES TO A CHILD'S BACKGROUND: IT ESTABLISHES FUNDAMENTAL EMOTIONAL, SOCIAL, LEGAL AND ECONOMIC TIES BETWEEN PARENT AND CHILD. IT IS A PREREQUISITE TO SECURING FINANCIAL SUPPORT FOR THE CHILD, AND TO DEVELOPING A HEIGHTENED EMOTIONAL SUPPORT THE CHILD DESERVES. PARENTAGE DETERMINATION ALSO UNLOCKS THE DOOR TO GOVERNMENT PROVIDED DEPENDANT'S BENEFITS, INCLUDING HEALTH INSURANCE, INHERITANCE, AND AN ACCURATE MEDICAL HISTORY FOR THE CHILD. MORE AND MORE OF THE CHILDREN OF UNMARRIED MOTHERS HAVE BECOME VULNERABLE TO THE GRIPS OF POVERTY. WE ALL KNOW THAT IN TODAY'S

EXHIBIT 1
DATE 2-12-93
11 HB-482

SOCIETY IT IS DIFFICULT, IF NOT IMPOSSIBLE, TO SUPPORT A CHILD ON ONE PARENT'S INCOME.

UPON THE BIRTH OF A CHILD TO AN UNMARRIED WOMEN, AT THE TIME OF BIRTH, THE ADMINISTRATOR OR PERSON IN CHARGE OF THE HOSPITAL OR THE MIDWIFE WHO ATTENDS THE BIRTH MUST PROVIDE AN OPPORTUNITY FOR THE CHILD'S MOTHER, AND ALLEGED FATHER TO COMPLETE AN ACKNOWLEDGMENT OF BIRTH OR PARENTAGE FORM. THIS DOCUMENT WILL BE PROVIDED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES, AND IT WILL DESCRIBE THE RIGHTS AND RESPONSIBILITIES OF PARENTAGE, AND THE BENEFITS OF HAVING A CHILD'S PATERNITY ESTABLISHED, AND THE CHILD'S RIGHT TO RECEIVE SUPPORT.

THE SECOND SIGNIFICANT FEATURE OF THIS BILL IS THAT IT PROVIDES THAT UPON NOTICE BY THE DEPARTMENT OF S.R.S. AN EMPLOYER OR PAYOR DOING BUSINESS IN THE STATE MUST REPORT THE HIRING OR REHIRING OF AN INDIVIDUAL. AN EMPLOYER IS NOT REQUIRED TO REPORT THE HIRING OF AN INDIVIDUAL WHO THE EMPLOYER ANTICIPATES WILL BE WORKING LESS THAN ONE MONTH OR WILL BE SPORADICALLY EMPLOYED FOR LESS THAN 350 HOURS DURING ANY 6 MONTH PERIOD. AN EMPLOYER OR PAYOR IS NOT REQUIRED TO REPORT UNDER THIS BILL IF THE EMPLOYER EMPLOYEES OR CONTRACTS WITH FEWER THAN 10 PERSONS. AN EMPLOYER OR PAYOR OR UNION REQUIRED TO REPORT UNDER THIS BILL MUST SUBMIT TO THE DEPARTMENT MONTHLY REPORTS CONTAINING THE NAME, ADDRESS AND

SOCIAL SECURITY NUMBER OF EACH EMPLOYEE THAT WAS HIRED OR REHIRED OR RETURNED TO WORK DURING THE PRECEDING MONTH. FORTUNATELY THROUGH THE ACT OF THE 1981 LEGISLATURE THE CHILD SUPPORT ENFORCEMENT DIVISION WAS ABLE TO ACQUIRE A MAJOR COMPUTER SYSTEM

APPLICATION KNOWN AS SEARCHS, OR SYSTEM FOR ENFORCEMENT AND RECOVERY OF CHILD SUPPORT. THIS SYSTEM WILL AUTOMATE FINANCIAL MANAGEMENT OF CHILD SUPPORT COLLECTIONS, AND ABSENT PARENT LOCATION, PATERNITY ESTABLISHMENT, CASE ESTABLISHMENT, ORDER MODIFICATION, CASE MANAGEMENT AND INTERNAL PROGRAM EVALUATION. IN SHORT, WE WILL NOT HAVE TO EXPAND OUR COMPUTER SYSTEM TO IMPLEMENT THE FEATURES OF THIS BILL.

THE FINAL IMPORTANT NEW FEATURE OF THIS BILL DEALS WITH THE PERSON WHO HAS BEEN ORDERED TO PAY, BUT CHOOSES NOT TO DO SO. UNDER THIS PROVISION IF A PERSON OBLIGATED TO PROVIDE SUPPORT FAILS TO PAY AS ORDERED, THE PAYEE MAY PETITION A DISTRICT COURT, OR IN THE CASES OF IV-D OR WELFARE CASES, THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES MAY ISSUE A NOTICE OF INTENT TO SUSPEND ALL LICENSES ISSUED BY THE STATE OF MONTANA. THE NOTICE MUST BE SERVED UPON THE OBLIGOR PERSONALLY OR BY CERTIFIED MAIL. THE NOTICE MUST STATE THAT THE OBLIGOR'S LICENSE WILL BE SUSPENDED 60 DAYS AFTER SERVICE OF THE NOTICE UNLESS WITHIN THAT TIME THE OBLIGOR EITHER PAYS THE ENTIRE SUPPORT DEBT OR ENTERS INTO A NEW PAYMENT PLAN OR APPEARS AND SHOWS CAUSE WHY SUSPENSION A LICENSE IS NOT APPROPRIATE.

THE STATE GRANTS MANY TYPES OF LICENSES, INCLUDING DRIVERS LICENSES, PROFESSIONAL OR OCCUPATIONAL LICENSES AND HUNTING & FISHING LICENSES. RESTRICTION OR SUSPENSION OF THESE LICENSES WILL BE AN EFFECTIVE TOOL TO USE IN ENFORCEMENT. THE CONCEPT IS THAT ONE ARM OF THE STATE SHOULD NOT GRANT PRIVILEGES TO AN OBLIGOR IF HE OR SHE HAS VIOLATED STATE LAWS OR ORDERS OF ANOTHER ARM OF GOVT. OUR INTENT IS TO MAKE IT CLEAR THAT IT IS THE

EXHIBIT #1
DATE 2-12-93
#1 548-482

PUBLIC POLICY OF THE STATE OF MONTANA THAT THE SUPPORT OF CHILDREN IS OF THE HIGHEST PRIORITY IN THE ALLOCATION OF A RESPONSIBLE PARENT'S INCOME. OUR GOAL IS NOT FOR PARENTS TO LOSE INCOME THROUGH LICENSE DENIAL, BUT TO MAKE FINANCIALLY RESPONSIBLE PARENTS AWARE OF THE RISK OF LOSING THEIR CHOSEN LIVELIHOOD IF THEY DO NOT MAKE A GOOD FAITH EFFORT TO PAY CHILD SUPPORT. PRESUMABLY, ONCE THEY RE AWARE OF THIS RISK, FINANCIALLY RESPONSIBLE PARENTS WILL BEGIN COMPLYING WITH SUPPORT ORDERS. WE FEEL THAT IT IS INCONGRUOUS FOR THE STATE TO ISSUE LICENSES TO PEOPLE WHO IGNORE A STATE COURT'S ORDER. SUSPENDING A LICENSE CONTINUES UNTIL THE SUPPORT ENFORCEMENT ENTITY ADVISES THE LICENSING AUTHORITY THAT THE SUSPENSION HAS BEEN STAYED OR TERMINATED. AN OBLIGOR WHO CONTINUES TO ENGAGE IN THE BUSINESS, OCCUPATION OR PROFESSION, OR OTHER LICENSED ACTIVITY WHILE THE LICENSE IS SUSPENDED UNDER THIS SECTION IS GUILTY OF A MISDEMEANOR AND UPON CONVICTION SHALL BE PUNISHED BY A FINE OF NOT LESS THAN \$250 OR MORE THAN \$500, BY IMPRISONMENT FOR A TERM NOT TO EXCEED 6 MONTHS OR BOTH.

THERE SHOULD BE A POSITIVE FISCAL NOTE ATTACHED TO THIS BILL, BECAUSE IF ENACTED INTO LAW THIS BILL WILL PLACE FINANCIAL RESPONSIBILITY FOR CHILDREN WHERE IT BELONGS, AND THAT IS WITH THE CHILD'S PARENTS... NOT THE STATE. THERE ARE A NUMBER OF PEOPLE HER TO SPEAK ON BEHALF OF H.B. 482: I WOULD LIKE TO NOW PROVIDE TIME FOR THEIR TESTIMONY. IF THE MEMBERS OF THE COMMITTEE HAVE ANY QUESTIONS ABOUT THIS BILL, I WILL BE GLAD TO ANSWER THEM, AND I WOULD APPRECIATE THE OPPORTUNITY TO CLOSE.

THANK YOU.

A REVIEW OF HOUSE BILL 482

introduced by Representative John C. Bohlinger

AN ACT PROVIDING FOR CIVIL CONTEMPT FOR FAILURE TO SUPPORT,
AN ACT REQUIRING EMPLOYERS, PAYORS OR UNIONS TO
REPORT TO S.R.S. HIRING INFORMATION,
AN ACT PROVIDING A PATERNITY ACKNOWLEDGMENT PROCESS,
AN ACT PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES
FOR FAILURE TO PAY SUPPORT.

SUMMARY OF H.B. 482

1. SECTION 1. page 2, line 9, FAILURE TO PAY SUPPORT = CIVIL CONTEMPT.
2. SECTION 2. page 6, line 21, DEFINITIONS.
3. SECTION 3. page 8, line 24, PAYORS TO PROVIDE INFORMATION TO DEPARTMENT.
4. SECTION 4. page 12, line 2, PATERNITY ACKNOWLEDGMENT.
5. SECTION 5. page 12, line 25, DEFINITIONS
6. SECTION 6. page 16, line 21, NOTICE OF INTENT TO SUSPEND LICENSE.
7. SECTION 7. page 17, line 20, HEARING -- ORDER SUSPENDING LICENSES
8. SECTION 8. PAGE 19, LINE 10, SUSPENSION, DENIAL, AND NONRENEWAL OF LICENSES.
9. SECTION 9. PAGE 21, LINE 9, STAY OF SUSPENSION OF LICENSE PAYMENT PLAN -- HARDSHIP.
10. SECTION 10. PAGE 22, LINE 21, TERMINATION OF ORDER TO SUSPEND LICENSE.

Montana child support statistics

One out of every four babies born in Montana in 1991 was born to unmarried parents, up from one out of five in 1984.

The child support enforcement division's staff of 120 people is now handling 38,000 cases of unpaid child support.

Delinquent parents owe their children in Montana an estimated \$100 million.

A little over half of the parents who ask the division for help are on welfare.

Of the 11,000 Montana families who receive Aid to Families with Dependent Children, only 30 percent receive child

support payments from an absent parent.

Last year, child support services collected about \$20 million in late child support, up from \$8 million in 1989.

Nationally, about half of all absent parents who have been ordered to pay child support don't.

Montana's support division expects to be handling over 53,000 cases of unpaid child support by 1995.

95 percent of the cases handled by the collection agency are fathers who fail to pay for their children's support.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES
CHILD SUPPORT ENFORCEMENT DIVISION

EXHIBIT 3
DATE 2-12-93
HB 482

MARGRACICOT
GOVERNOR

PETER S. BLOUKE, PhD
DIRECTOR

STATE OF MONTANA

FAX # (406) 444-1370
(406) 444-4614

PO BOX 5955
HELENA, MONTANA 59604-5955

House Bill 482
Civil Contempt, Employer Reporting, Paternity Establishment and
State License Suspension

Testimony
Submitted by Mary Ann Wellbank, Administrator
Child Support Enforcement Services
Department of Social and Rehabilitation Services

The sponsor, Representative John Bohlinger has been very generous in allowing the CSED substantial input on this legislation. The CSED processes outlined in HB 482 can be absorbed in the executive budget recommendation, and would substantially strengthen the Montana child support enforcement program. We believe that collections would increase as a result of this legislation.

Representative Bohlinger's bill combines the strongest recommendations of the U.S. Interstate Commission on Child Support in its Report to Congress and the best practices of other states.

\$100 million in back support is owed in Montana. The fact is, many parents purposely avoid paying support, and due to the limited resources of the courts and the division, are able to get away without paying.

The bill has four main sections:

Employer Reporting of New Hires Many parents seeking to avoid their support obligations move from job to job too quickly for income withholding to be initiated. They often work for cash, work as independent contractors or obtain seasonal, temporary employment. They remain one step ahead of the law. Employer reporting of new hires would expedite location of absent parents, and allow the division a head start in initiating income withholding orders. Alaska, Washington and Minnesota are three states who have employer reporting laws, and who have found them very effective.

Hospital Paternity Establishment Out-of-wedlock births in Montana are on the rise. Currently, 25% of all births are out of wedlock. Paternity establishment right at birth benefits the child, not only from a child support perspective but from a genetic and medical perspective as well. The child can be eligible for insurance coverage, inheritances, veteran's and social security benefits, and other benefits for which the father qualifies. Early paternity establishment can save the state money for blood tests and hearings

that may be conducted later. It also can save medicaid benefits, if the father has insurance coverage, and AFDC monies, if the father can provide adequate financial support. Several states currently have or are initiating in-hospital paternity establishment programs. In-hospital paternity establishment right at birth is successful because if the father is present, he is there because he is interested in the child. Having him acknowledge paternity at that time often engenders pride and responsibility. The CSED would work with hospitals to develop a program brochures which fully explain both parents' rights and responsibilities.

In Montana, we have recently met with the Montana Hospital Association in an effort to develop a pilot project with the hospitals who are interested. Some of the hospitals have expressed preliminary interest in participating in a pilot project.

Civil Contempt

The civil contempt provisions of this legislation are extremely important to Montana. Under present law, although courts have the inherent power of contempt, it is very difficult to establish. Current law offers no specific guidance as to what constitutes contempt. This leads to disparity in application of the law, and frustration by custodial parents who are trying to collect child support. Without the specific guidance this bill offers, civil contempt for failure to pay child support is ineffectual. The new provisions set forth specific circumstances under which an obligor parent must be found in contempt for failure to pay child support. The proposed statute borrows from the laws of other states which hold that the mere failure to pay support, as ordered, is "per se" contempt. The burden of proof is then on the obligor rather than the individual trying to collect support. The revisions contained in this bill would make contempt into a useful, practical and cost effective remedy for application in those cases where there are chronic delinquencies or in self-employed cases where there are few other effective remedies.

License Suspension

This provision of the bill would allow for suspension of all state issued licenses including professional and occupational licenses, drivers licenses, including commercial drivers licenses, and fish and game licenses.

This provision would allow for due process of law, and would provide for a stay of suspension for reason of financial hardship. The hearing and revocation process described in HB 482 is designed to minimize adverse clerical impacts on state licensing agencies, and place the primary administrative responsibilities on the CSED. The legislation would not interfere with state authority to issue disciplinary suspensions, nor would the other state agency be party to the hearing or required to defend either the licensee or the CSED.

EXHIBIT #3

DATE 2-12-93

HB-482

Just last week I received the January 1993 publication of the Child Support Report published by the federal Office of Child Support Enforcement. It contained the results of a recent study in which Massachusetts compared its automated child support files with its income tax records.

To quote the report,

"The result was a revealing financial portrait of 72,000 obligated parents, most of whom are delinquent in their child support payments....One major finding was that tens of thousands of Massachusetts parents who are obligated to pay support have much greater means to pay support than previously believed....Of the total 72,000 parents in the study, 5,667 earned over \$50,000 a year and ONE THIRD of them had children on AFDC....Almost 8,000 parents not paying child support, one in nine in the sample, either owned their own businesses or received income from partnerships..."

These are significant statistics. Although the raw numbers would be different in Montana, the conclusions of this study are applicable. Many parents who are delinquent in support have the means to meet their legal obligations and keep their children off welfare.

You may be aware that one of the biggest problems in Montana - and nationwide - with respect to child support is the inability to enforce obligations of self-employed obligor who do not cooperate in meeting their responsibilities. A significant portion of parents who are delinquent in support have the means to meet their legal obligations and keep their children off welfare. They might be working for cash or self-employed. A significant percentage of those hold state issued licenses - particularly driver's licenses, but also professional and occupational licenses.

Ideally, government agencies such as the CSED should not be involved in enforcing fundamental parental responsibilities. But the fact remains that many parents in Montana are not supporting their children. \$100 million is owed in back support. Regrettably, many parents can afford to support their children. Many delinquent parents have income, assets, and an adequate standard of living, yet their children are subsisting at or below the poverty level.

Thank you for the opportunity to provide this testimony. CSED staff members and I are here as resources to answer any questions about this legislation.

Interdepartmental Coordinating
Committee for Women

ICCW

SUPPORT TO STRENGTHEN AND ENHANCE
THE ENFORCEMENT OF MONTANA'S CHILD SUPPORT SYSTEM
February 12, 1993

The Interdepartmental Coordinating Committee for Women (ICCW) strongly supports the efforts of the Department of Social and Rehabilitation Services, the Legislature and other interested parties to strengthen and enhance the enforcement of Montana's child support system. Our support is extended to bills being presented today and throughout this legislative session that will benefit state employees who rely on child support as part of their financial income.

In today's society, we have an ever growing number of single parent families with dependent children. Some of these single parents, men and women alike, work for Montana state government. Trying to raise a family on limited income with sporadic or no financial support through the child support system can result in the loss of productivity -- a hidden expense to state government. Managers have cited increased frequency of errors and an increased use of sick leave due to the stress caused by such situations.

The challenging financial circumstances for these state employees further affect their performance in the workplace by limiting their opportunities to invest in job training. As a result of tight state budgets, more employees who desire additional training will be paying their own training costs. In these instances, state government employees who are financially burdened by a lack of child support are at an unfair disadvantage.

There are state government employees who depend on financial support from state-funded programs such as AFDC, as a result of the lack of child support. There are situations when these employees cannot accept opportunities for job advancement that would result in increased pay, because the job advancement may jeopardize their qualifications in state government assistance programs and result in less family income. We ask that you help to remedy situations like this. Strengthening and enhancing the enforcement of Montana's child support system will reduce dependence on welfare and social programs and could result in an overall reduction of expenditures for the State of Montana.

I urge you to support this bill and bills like it as a way to insure that children grow up with their basic needs met and that families' needs do not close doors of opportunities for single parents. ICCW asks that you recognize the potential benefits to Montana state government and state government employees.

Contact: Becky Shaw, 444-6594



What I am trying to do with this testimony and purposed legislation? It is quite evident by what has happened since the child support law went into effect in August of 1985. That says, that the State of Montana can take up to 50% of your wages, that is if you owe back child support. Regardless of what you make, the State of Montana does not have to leave you anything to live on. The State of Montana's attitude was, and still remains that they do not care how many people become homeless, just as long as they get their money. By January, I hope to have enough correspondence on the issue of child support, to prove just how devastating this law has become. How many lives have become ruined, and to show just how many families have been broken up over the issue of child support enforcement. I know first hand, what some of the circumstances are, as I have went through some of the same things myself. Do any of you know what degradation that we have to go through? Do any of you really care? Just as long as it does not effect you personally. It is my opinion that the State of Montana, in fact does not care in the least, as we are only low-income or working poor people.

What am I trying to do with my purposed legislation? I am trying to keep a lot of people from needlessly becoming homeless. First, if a man becomes homeless because he can not pay his child support. What becomes of his ex-wife and children? Usually, the ex-wife and children end up on AFDC. Or the worse kind of scenario possible, the family ends up on the street homeless, along with the man that could not pay his child support. So, all in all the law creates more problems than it solves, in some cases. Most of us fathers and mothers that pay child support are not dead beats. We want to pay child support, but due to circumstances beyond our control in some cases, we do not make enough money to live on, let alone pay child support. Most of us fathers and mothers try to live up to our obligations of paying child support. Granted, there are some fathers and mothers that are dead beats.

Good morning, Mr. Chairman and members of the committee.

My name is Wilbur Johnson. I reside at 400 4th Avenue North, Apt. # Great Falls, Montana, 59401. My mailing address is Post Office Box 617, Great Falls, Montana, 59403.

I am a Low-Income Advocate and lobbyist. I stand before you today as a former street person. Ah! You ask what this has to do with the issue before us. Well, I am going to tell you, and it is quite relevant to this issue, I can assure you.

I was working for the City of Great Falls, Park and Recreation Department, Park Maintenance Division. My position was light clean-up. I was working for \$4.28 per hour, no medical coverage, only sick and vacation pay. I went to my supervisor, and ask him if there was any chance of getting medical coverage and more money. I was told "No way". He further told me that I was in a dead end job, and that I should look for a different job. My take home pay for two weeks was \$134.00, after Child Support Enforcement got through taking their 50% of my check. So on the Second (2nd) of June, I resigned in front of the full City Commission. I then went to work for Hardee's in Great Falls, at \$4.35 per hour. With only part time hours until a full time position became available. I was going to work my way up to a supervisors position. I could have worked my way into a supervisors position in about one year, or a year and one-half. Then after I had been with Hardee's for one year, I would be eligible for their insurance. My first check was something like \$95.00 for two weeks. I called the Great Falls office of Child Enforcement, and told them what had happened. I was told by that office and I quote "Mr. Johnson, we don't care if you have to live on the streets, that if you are working we will take 50% of your check. Yes, you guessed it. I had to quit my job, as I could not pay rent for my apartment.

I ended up on the streets from the First of July until about the tenth of August, when I got on General Assistance. I am now trying to get on SSI.

About two years ago, I had almost the same thing happen to me. Except, I did not wind up on the streets. I talked to a supervisor in the office of Great Falls Child Enforcement and she told me, and I quote "Mr. Johnson, we don't give a damn if you have to live in the Rescue Mission. If you are working we will take 50% of your money".

I ask you now, Mr. Chairman, and ladies and gentlemen, What can be accomplished by making us street people? How many more men and in some cases women are going to become homeless over the issue of Child Enforcement? I know of at least 25 men and 4 women, yes, I said women that have become homeless over this issue.

Now, Mr. Chairman, and members of this committee, I ask you Is this indeed the attitude of the state? Most of us fathers, and in some cases mothers are not dead beats. We admit that we owe the money and want to pay it. But at least have the common courtesy to leave us enough dignity, to at least maintain a roof over our heads.

On the eighth of September, being in deep depression and I mean deep

depression. I tried to commit suicide, by walking out in front of a car in Great Falls. I was so shaken by what I had tried to do, that I went to the emergency room of the Montana Deaconess Medical Center in Great Falls. I had a nervous breakdown and I spent one week in Two South.

After being released from the hospital, I started to lobby local legislators proposing legislation as follows:

A single man or woman should be allowed \$500.00 per month, before anything is taken out of their check.

A person that has remarried and has children should be allowed \$850.00 before anything is taken out of their check by Child Support Enforcement.

I feel bad that I can not give my daughter the money that she so badly needs.

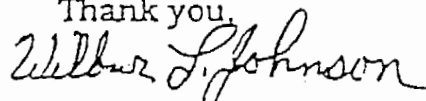
I had a beautiful lady that was going to marry me until she found out that I was only clearing \$134.00 for two weeks, was one of the major reasons that she called off the wedding. The part that really hurts is that I still love her so very much. Thanks to the state, I more than likely will never remarry. The state has taken my life and shattered it. The state has taken my health and shattered it, causing me to almost kill myself. How many more lives are going to be shattered? How many families will be broken up over this issue?

Place Insert

And in closing, Mr. Chairman, and ladies and gentlemen, I would like to ask you the question that I have been asked in a lot of correspondence that I have received on this issue and that is, and I quote, "What gives some of you people the right to play God with other people's lives?"

I thank you for allowing me to appear before you to testify on this issue. I know that I have been a little long. I believe that these issues have to be brought to your attention.

Thank you.



Wilbur L. Johnson

Insert

Mr. Chairman, I would like to include something that is not in my original testimony.

I have a guaranteed student loan that I have not been able to pay on for two years, because of this child support issue. Will I end up by going to jail? Just because I can not pay on the loan.

I would like to offer a challenge to any legislator in the state, and that is. Sometime when you want a real startling experience, sit down and take off your shoes, and step into the shoes of a low-income, or working poor person, that has to deal with child support enforcement. I guarantee you, it will be a rude awakening to some. And to some, it will literally scare the hell out of you, finding out some of the conditions that we have to live under..

EXHIBIT #5
DATE 2-12-93
FILE HB-482

EXHIBIT 6
DATE 2-12-93
HB-182

On 1969 I was divorced from James Edgar Boring in Texas. During this attorney was paid for by the county although I was not working then in the welfare system. I had three children from that marriage. My oldest son, Michael Dean Boring was born in 1961, a daughter, Joan-Mar Boring born in 1964 and an infant daughter born one month prior to the divorce in 1969. My attorney ret-ree a sum of \$11,000 per month to be paid by the state and that was for the divorce hearing. As I was a divorced wife I did not receive the support from my children. At the time of the divorce I

I worked two jobs trying to support and care for one child for the entire year. Finally in frustration I gave up and applied for welfare. I was told in order to receive help from the state I had to sign a statement giving permission to the system to go after the father for child support and I said yes. Therefore my debt would need to be repaid the amount I received for welfare and food stamps. I signed the statement and the state took the balance of the money that was left after the child support was paid. I was almost bankrupt and I was left with no money to take care of my children. I was unable to work because of my condition of unemployment. However the medical bills kept piling up and keeping this job was beginning to take its toll on me. The only way a person could get help with medical then was to be on A.D.P.D. I learned very quickly how much I could work and earn for on the benefits given by the state. I turned down promotions and longer hours in order to meet state guidelines because even though the job is fulltime they would have to give more money, it still would not have been enough to house, feed, clothe and pay the necessary medical expenses for three children. That is how I lived and I am certain that I was not alone. I know that the children I took care of were not alone either. I was not alone in this country.

[illegible][illegible][illegible]

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and in some life. Her father had a large collection of property, a large
house of property. Consequently I again learned to use the system, within the
hours of the law, and began to educate the children. I began to work with
myself and them going to great lengths to start in school. We did not get any
welfare but used the financial aid system and the do without anything that
was necessary to keep body and soul together system. My son dropped out
of school and is a laborer, my oldest daughter graduated from May School
with an associate degree in business and is now married, living in California
and working for the Santa Indian tribe as their office manager making
\$95,000 a year. My youngest daughter graduated from Santa with a degree
in English and is working for the Santa Indian tribe as their office manager
making \$95,000 a year. My son is now a laborer and is working for the Santa
Indian tribe as their office manager making \$95,000 a year.

I have been all over the world - I have been to all the countries of the world
and I have seen some of the conditions of the world. First my children
were robbed of a carefree childhood. Then we went to work and summer.
Before they entered high school and worked their way through high school and
college. We never had a vacation. My children are very bitter towards their
father. My son has changed his name from Stanley to Hammer, my mother's
name. It was extremely painful to watch as others their age got new
clothing for school, had cars, (I didn't even own a car for some years), and
took part in normal school events and my children did not have the money
or time for. Three years before my youngest daughter graduated from Santa
with a degree in English and is working for the Santa Indian tribe as their
office manager making \$95,000 a year. My son is now a laborer and is working
for the Santa Indian tribe as their office manager making \$95,000 a year.
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for the Santa Indian tribe as their office manager making \$95,000 a year.

That was all this side of me. Then I have seen it with my own eyes as the
children a decent start in life that I have given them and my own situation
in the work world. That is why I have been so bitter towards them for all
these years. I have been all over the world - I have been to all the countries
of the world and I have seen some of the conditions of the world. First my
children were robbed of a carefree childhood. Then we went to work and summer.
Before they entered high school and worked their way through high school and
college. We never had a vacation. My children are very bitter towards their
father. My son has changed his name from Stanley to Hammer, my mother's
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took part in normal school events and my children did not have the money
or time for. Three years before my youngest daughter graduated from Santa
with a degree in English and is working for the Santa Indian tribe as their
office manager making \$95,000 a year. My son is now a laborer and is working
for the Santa Indian tribe as their office manager making \$95,000 a year.

I hope this story of my struggle will give some meaning to the legislation
and the conditions of the world. I hope it will give some meaning to the
conditions of the world. I hope it will give some meaning to the conditions
of the world. I hope it will give some meaning to the conditions of the world.

EXHIBIT #6

DATE 2-12-93

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as I did, a way to use the system, or they choose to abuse the system. each of which is a far greater burden on the budget than finding and forcing the fathers to carry their own responsibilities. Children are raised either or neither fathers have no responsibility or to be better serve them. It is. These same children are the victims of this crime as they struggle with self esteem and the financial impact of being abandoned.

Mary (Sue) LaMere

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Judiciary
DATE *Feb. 12, 1993*

COMMITTEE

BILL NO. *S.D. 480*

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Bigs. MD. Dianna Schroeder, 12120 molly Dr.</i>	<i>Montana's Kids</i>	X	
<i>Linus Carleton</i>	<i>SRS / CSED</i>	X	
<i>M. H. H. H.</i>	<i>CSED</i>	X	
<i>Paulette Kohman</i>	<i>Int Council National Child Protection</i>		
<i>Katie Conway</i>	<i>ACES</i>		
<i>Ann-marie Entwistle</i>	<i>ICCW</i>	X	
<i>Walter F. Johnson Box 657 Great Falls</i>	<i>Johnson Advocacy Service</i>		X
<i>Heather Madson</i>	<i>KIDS</i>	X	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN RUSSELL FAGG, on February 15, 1993,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Russ Fagg, Chair (R)
Rep. Randy Vogel, Vice Chair (R)
Rep. Dave Brown, Vice Chair (D)
Rep. Ellen Bergman (R)
Rep. Jody Bird (D)
Rep. Vivian Brooke (D)
Rep. Bob Clark (R)
Rep. Duane Grimes (R)
Rep. Scott McCulloch (D)
Rep. Jim Rice (R)
Rep. Angela Russell (D)
Rep. Tim Sayles (R)
Rep. Liz Smith (R)
Rep. Bill Tash (R)
Rep. Howard Toole (D)
Rep. Tim Whalen (D)
Rep. Karyl Winslow (R)
Rep. Diana Wyatt (D)

Members Excused: None

Members Absent: None

Staff Present: John MacMaster, Legislative Council
Beth Miksche, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 559, HB 555, HB 554, HB 561,
HB 562, HB 597, HB 551, HB 570
Executive Action: HB 559, HB 482

REP. GRINDE emphasized that HB 570 does not change anything that is not in current law. All this bill does is get state agencies involved, how their actions could affect private property, and that the state could be liable if this is impacted.

EXECUTIVE ACTION ON HB 559

Motion/Vote: REP. GRIMES MOVED HB 559 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 482

Motion: REP. BROWN MOVED HB 482 DO PASS.

Discussion:

REP. WYATT discussed a conceptual amendment. CHAIRMAN FAGG and MR. MACMASTER, not aware of any amendments, asked her to explain it to the committee.

Motion: REP. WYATT moved an amendment which refers to the insurance company paying medical coverage on children. In the case of an absent parent, specifically female, who is working and is not covered by health insurance, that parent can be held responsible for paying for health insurance.

Mr. MacMaster asked REP. WYATT to explain whether the courts order these agencies to pay for children's insurance or whether this bill would be used as a vehicle to enforce an already existing court order that the parent pay for insurance. Currently, during a divorce, often a judge orders as part of a parent's support obligation, that a parent keep up existing medical insurance on the child.

REP. BROOKE spoke to Paulette Coleman, attorney at law, who specializes in children and families in Missoula. CHAIRMAN FAGG suggested holding off on REP. WYATT'S amendment and having Ms. Coleman talk to REP. BOHLINGER and Mr. MacMaster and add this during House floor debate. The concept amendment is not that complicated, but the wording should be drafted by someone who understands it.

Motion: REP. VOGEL, referring to page 12, line 4, moved that language be amended to "administrator or his designee."

REP. WINSLOW spoke to Mr. Ahrens and Mr. MacMaster about the amendments specifically. Mr. MacMaster told Mr. Ahrens and REP. WINSLOW that when a bill is drafted, it is understood that the person in charge of a company/organization delegates it to anybody he wants to, and Mr. Ahrens agreed with that. While it doesn't hurt to put the amendment in, that is normally not done when a bill is drafted.

REP. VOGEL withdrew his amendment.

REP. RICE does not like the idea of suspending someone's license to a business or profession. He said it's a bad approach to take away somebody's livelihood to get money from them. He is concerned that would drive people out of the state.

Motion: REP. RICE moved a concept amendment to strike sections 6 through 10.

Discussion:

REPS. BROOKE and TOOLE do not think it's necessary to take away someone's drivers license. They feel it would make more sense to suspend the license for a probationary period of time

Motion: REP. BROWN MOVED HB 482 BE TABLED.

Discussion:

REP. BROWN added that he made the motion to table HB 482 because there are two other introduced bills which attempt to enforce child support. This bill has too many flaws and too little time to correct them.

REP. WINSLOW asked if anyone knew how many cases of unpaid child support there currently are in Montana, and CHAIRMAN FAGG said there are 38,000 cases of unpaid child support in the state of Montana. Delinquent parents owe their children an estimated \$100 million.

REP. BIRD said she does not think a person who is a new hire in Montana should be subject to the \$5 fee whether it applies to that person or not. She also pointed out that some of these "deadbeat" dads do see their children, although they do not pay child support. If they are driven out of the state because of the threat of losing their licenses or for some other reason, there is a possibility that those children would not see their fathers at all.

CHAIRMAN FAGG is against the table motion. He said that this issue came up during his campaign, right behind the business, sales tax and abortion issues. It was very clear to him that the current laws are immense but are not working. He said Montana needs a "hammer," i.e., the threat of loss of license or loss of license; if, at that point, the father is still not making every effort to pay his child support, then he ought to lose his license.

Vote: HB 482 BE TABLED. Motion failed 5-13. Those voting to table HB 482 were REPS. BROWN, BIRD, SAYLES, WHALEN and WINSLOW. Those voting not to table HB 482 were CHAIRMAN FAGG, REPS. VOGEL BERGMAN, BROOKE, CLARK, GRIMES, MCCULLOCH, RICE, RUSSELL, SMITH,

TASH, TOOLE and WYATT.

REP. VOGEL asked REP. COBB about the fiscal note, and REP. COBB assured REP. VOGEL there was not money in a fund that could be used elsewhere. He said it was a contract of labor or services and would not be drawn from the general fund.

REP. GRIMES asked Mr. MacMaster if the state could take away a federal license. As Mr. MacMaster understands the bill, the only licenses to be suspended are those granted by state agencies.

REP. RICE clarified what license means. According to the bill, it means any license, i.e., a drivers license, a permit to use water rights, or a permit to carry concealed weapons. He said this is an extremely broad-based situation.

Motion/Vote: REP. WHALEN moved to strike sections 6-10, page 9. Motion carried 12-6 with CHAIRMAN FAGG, REPS. WYATT, TOOLE, VOGEL, MCCULLOCH and WHALEN voting no.

Motion: REP. BIRD moved to amend \$5.00 to \$1.00 on page 11, line 21.

Discussion:

REP. BROWN reminded the committee that they had discussed whether it really does cost \$5.00 to file this kind of report with the employer.

Motion/Vote: REP. CLARK moved a substitute motion to amend the \$5.00 to \$3.00. Amendment carried 10-7 with REPS. BROWN, BIRD, MCCULLOCH, RICE, WHALEN, WINSLOW and WYATT voting no.

Motion/Vote: REP. WHALEN moved to strike section 8 from the bill. Amendment failed 15-3.

Motion/Vote: REP. BIRD moved a conceptual amendment on page 10, lines 5-11 so that the information may be made confidential. Amendment carried unanimously.

Motion/Vote: REP. BIRD moved a conceptual amendment after reimbursement on line 17, page 12, to insert the words "by the department" after the word "reimbursement." Amendment failed 13-5.

Vote: HB 482 DO PASS. Motion carried 12-6. Those voting do pass were CHAIRMAN FAGG, REPS. VOGEL, BERGMAN, BROOKE, CLARK, GRIMES, MCCULLOCH, RUSSELL, SMITH, TASH, TOOLE, and WYATT. Those voting do not pass were REPS. BROWN, BIRD, RICE, SAYLES, WHALEN, and WINSLOW.

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL

DATE

2-15-93

NAME	PRESENT	ABSENT	EXCUSED
Rep. Russ Fagg, Chairman	✓		
Rep. Randy Vogel, Vice-Chair	✓		
Rep. Dave Brown, Vice-Chair	✓		
Rep. Jodi Bird	✓		
Rep. Ellen Bergman	✓		
Rep. Vivian Brooke	✓		
Rep. Bob Clark	✓		
Rep. Duane Grimes	✓		
Rep. Scott McCulloch	✓		
Rep. Jim Rice	✓		
Rep. Angela Russell	✓		
Rep. Tim Savles	✓		
Rep. Liz Smith	✓		
Rep. Bill Tash	✓		
Rep. Howard Toole	✓		
Rep. Tim Whalen	✓		
Rep. Karyl Winslow	✓		
Rep. Diana Wyatt	✓		

HR:1993

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CS-09

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 18MOTION: HB 482 DO Pass as amended 12-6

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair		✓
Rep. Jodi Bird		✓
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice		✓
Rep. Angela Russell	✓	
Rep. Tim Sayles		✓
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen		✓
Rep. Karyl Winslow		✓
Rep. Diana Wyatt	✓	
	12	6

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 18

MOTION: Rep. Bird's concept Amendment after reimbursement on lines 17, page 12 to insert the words:
"by the department." Amendment failed 13-5

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird		✓
Rep. Ellen Bergman		✓
Rep. Vivian Brooke		✓
Rep. Bob Clark		✓
Rep. Duane Grimes	✓	
Rep. Scott McCulloch		✓
Rep. Jim Rice		✓
Rep. Angela Russell		✓
Rep. Tim Sayles		✓
Rep. Liz Smith		✓
Rep. Bill Tash		✓
Rep. Howard Toole		✓
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt		✓

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB482 NUMBER 18MOTION: HB482 Be Tabled Failed 13-5

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke		✓
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch		✓
Rep. Jim Rice		✓
Rep. Angela Russell		✓
Rep. Tim Sayles	✓	
Rep. Liz Smith		✓
Rep. Bill Tash		✓
Rep. Howard Toole		✓
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt		✓
	5	13

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 17MOTION: Rep. Wyatt's Amendment passes 17-0

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	NO VOTE	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Savles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 18MOTION: Amendment fails to strike section 612-6

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke		✓
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch		✓
Rep. Jim Rice	✓	
Rep. Angela Russell		✓
Rep. Tim Sayles		✓
Rep. Liz Smith		✓
Rep. Bill Tash	✓	
Rep. Howard Toole		✓
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt		✓
	6	12

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 17MOTION: Rep. Clark's amendment to change 85.00
to \$3.00 passed 10-7

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair		✓
Rep. Jodi Bird		✓
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	Abstained	
Rep. Scott McCulloch		✓
Rep. Jim Rice		✓
Rep. Angela Russell	✓	
Rep. Tim Sayles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen		✓
Rep. Karyl Winslow		✓
Rep. Diana Wyatt		✓
	10	7

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 18MOTION: Rep. Whalen's amendment Failed

NAME	AYE	NO
Rep. Russ Fagg, Chairman		✓
Rep. Randy Vogel, Vice-Chair		✓
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman		✓
Rep. Vivian Brooke		✓
Rep. Bob Clark		✓
Rep. Duane Grimes		✓
Rep. Scott McCulloch		✓
Rep. Jim Rice		✓
Rep. Angela Russell		✓
Rep. Tim Savles		✓
Rep. Liz Smith		✓
Rep. Bill Tash		✓
Rep. Howard Toole		✓
Rep. Tim Whalen	✓	
Rep. Karyl Winslow		✓
Rep. Diana Wyatt		✓
	3	15

HOUSE OF REPRESENTATIVES

Judiciary

COMMITTEE

ROLL CALL VOTE

DATE 2/15/93 BILL NO. HB 482 NUMBER 18MOTION: Rep. Bird's amendment so that information
can be confidential on p. 10, lines 5-11.Motion carried unanimously.

NAME	AYE	NO
Rep. Russ Fagg, Chairman	✓	
Rep. Randy Vogel, Vice-Chair	✓	
Rep. Dave Brown, Vice-Chair	✓	
Rep. Jodi Bird	✓	
Rep. Ellen Bergman	✓	
Rep. Vivian Brooke	✓	
Rep. Bob Clark	✓	
Rep. Duane Grimes	✓	
Rep. Scott McCulloch	✓	
Rep. Jim Rice	✓	
Rep. Angela Russell	✓	
Rep. Tim Savles	✓	
Rep. Liz Smith	✓	
Rep. Bill Tash	✓	
Rep. Howard Toole	✓	
Rep. Tim Whalen	✓	
Rep. Karyl Winslow	✓	
Rep. Diana Wyatt	✓	

HOUSE STANDING COMMITTEE REPORT

February 15, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Judiciary report that House Bill 482 (first reading copy -- white) do pass as amended.

Signed: _____
Russ Fagg, Chair

And, that such amendments read:

1. Page 9, line 2.

Strike: "subsections (2) and (3)"

Insert: "subsection (2)"

2. Page 9, lines 14 through 16.

Strike: subsection (3)

Renumber: subsequent subsections

3. Page 10, line 8.

Following: "person."

Insert: "The information must be kept confidential by the department and may not be disseminated by it."

4. Page 11, line 21.

Strike: "\$5"

Insert: "\$3"

5. Page 16, line 10.

Strike: "providing"

Insert: "that provides"

6. Page 16, line 12.

Following: "obligation"

Insert: "and that may include payment of a determinable or indeterminable amount for insurance covering the child"

HOUSE BILL NO. 482

INTRODUCED BY BOHLINGER, FAGG, KEATING, TOOLE, KADAS, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; REQUIRING EMPLOYERS, PAYORS, AND UNIONS TO REPORT HIRING INFORMATION TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; PROVIDING A PATERNITY ACKNOWLEDGMENT PROCESS; PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES FOR FAILURE TO PAY SUPPORT; AND AMENDING SECTIONS 40-5-403 AND 40-5-443, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 4 and 12] require the department of social and rehabilitation services to adopt rules necessary for the implementation and administration of [sections 4 through 11].

The rules may include provisions regarding:

(1) the provision of reimbursements to hospitals, institutions, and midwives for paternity acknowledgment costs;

(2) the notice of intent to suspend licenses;

(3) the hearing procedure used to review the cause for suspension of a license;

(4) the approval of payment plans agreed to by obligors

for payment of support debts;

(5) the determination of circumstances creating a hardship that warrant a stay of action for suspension of a license; and

(6) the procedures for implementing and enforcing an order suspending a license.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Failure to pay support --**
civil contempt. (1) For purposes of this section, "support" means child support; spousal support; health insurance, medical, dental, and optical payments; day care expenses; and any other payments due as support under a court or administrative order. Submission of health insurance claims is a support obligation if health insurance coverage is ordered.

(2) If a person obligated to provide support fails to pay as ordered, the payee or assignee of the payee of the

THERE ARE NO CHANGES IN THIS BILL
AND WILL NOT BE REPRINTED. PLEASE
REFER TO YELLOW COPY FOR COMPLETE TEXT.

APPROVED BY COMMITTEE
ON JUDICIARY

HOUSE BILL NO. 482

INTRODUCED BY BOHLINGER, FAGG, KEATING, TOOLE, KADAS, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; REQUIRING EMPLOYERS, PAYORS, AND UNIONS TO REPORT HIRING INFORMATION TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES; PROVIDING A PATERNITY ACKNOWLEDGMENT PROCESS; PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES FOR FAILURE TO PAY SUPPORT; AND AMENDING SECTIONS 40-5-403 AND 40-5-443, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections 4 and 12] require the department of social and rehabilitation services to adopt rules necessary for the implementation and administration of [sections 4 through 11].

The rules may include provisions regarding:

- (1) the provision of reimbursements to hospitals, institutions, and midwives for paternity acknowledgment costs;
- (2) the notice of intent to suspend licenses;
- (3) the hearing procedure used to review the cause for suspension of a license;
- (4) the approval of payment plans agreed to by obligors

for payment of support debts;

(5) the determination of circumstances creating a hardship that warrant a stay of action for suspension of a license; and

(6) the procedures for implementing and enforcing an order suspending a license.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1.** Failure to pay support -- civil contempt. (1) For purposes of this section, "support" means child support; spousal support; health insurance, medical, dental, and optical payments; day care expenses; and any other payments due as support under a court or administrative order. Submission of health insurance claims is a support obligation if health insurance coverage is ordered.

(2) If a person obligated to provide support fails to pay as ordered, the payee or assignee of the payee of the support order may petition a district court to find the obligated person in contempt.

(3) The petition may be filed in the district court:

- (a) that issued the support order;
- (b) of the judicial district in which the obligated person resides; or
- (c) of the judicial district in which the payee or

1 assignee of the payee resides or has an office.

2 (4) Upon filing of a verified petition alleging facts
3 constituting contempt of the support order, the district
4 court shall issue an order requiring the obligated person to
5 appear and show cause why the obligated person should not be
6 held in contempt and punished under this section.

7 (5) The obligated person is presumed to be in contempt
8 upon a showing that:

9 (a) there is a support order issued by a court or
10 administrative agency of this or another state with
11 jurisdiction to enter the order;

12 (b) the obligated person had actual or constructive
13 knowledge of the order; and

14 (c) the obligated person failed to pay support as
15 ordered.

16 (6) Certified payment records maintained by a clerk of
17 court or administrative agency authorized by law or by the
18 support order to collect support are admissible in a
19 proceeding under this section and are prima facie evidence
20 of the amount of support paid and any arrearages under the
21 support order.

22 (7) Following a showing under subsection (5), the
23 obligated person may move to be excused from the contempt by
24 showing clear and convincing evidence that the obligated
25 person:

1 (a) has insufficient income to pay the arrearages;

2 (b) lacks personal or real property that can be sold,
3 mortgaged, or pledged to raise the needed sum;

4 (c) has unsuccessfully attempted to borrow the sum from
5 a financial institution;

6 (d) has no other source, including relatives, from
7 which the sum can be borrowed or secured;

8 (e) does not have a valid out-of-court agreement with
9 the payee waiving, deferring, or otherwise compromising the
10 support obligation; or

11 (f) cannot, for some other reason, reasonably comply
12 with the order.

13 (8) In addition to the requirement of subsection (7),
14 the obligated person shall also show by clear and convincing
15 evidence that factors constituting the excuse were not
16 occasioned or caused by the obligated person voluntarily:

17 (a) remaining unemployed or underemployed when there is
18 employment suitable to the obligated person's skills and
19 abilities available within a reasonable distance from the
20 obligated person's residence;

21 (b) selling, transferring, or encumbering real or
22 personal property for fictitious or inadequate consideration
23 within 6 months prior to a failure to pay support when due;

24 (c) selling or transferring real property without
25 delivery of possession within 6 months prior to a failure to

1 pay support when due or, if the sale or transfer includes a
2 reservation of a trust for the use of the obligated person,
3 purchasing real or personal property in the name of another
4 person or entity;

5 (d) continuing to engage in an unprofitable business or
6 contract unless the obligated person cannot reasonably be
7 removed from the unprofitable situation; or

8 (e) incurring debts subsequent to entry of the support
9 order that impair the obligated person's ability to pay
10 support.

11 (9) If the obligated person is not excused under
12 subsections (7) and (8), the district court shall find the
13 obligated person in contempt of the support order. For each
14 failure to pay support under the order, the district court
15 shall order punishment as follows:

16 (a) 5 days incarceration in the county jail;

17 (b) 120 hours of community service work;

18 (c) a \$500 fine; or

19 (d) any combination of the penalties in subsections
20 (9)(a) through (9)(c).

21 (10) An order under subsection (9) must include a
22 provision allowing the obligated person to purge the
23 contempt. The obligated person may purge the contempt by
24 complying with an order requiring the obligated person to:

25 (a) seek employment and periodically report to the

1 district court all efforts to find employment;

2 (b) meet a repayment schedule;

3 (c) compensate the payee for the payee's attorney fees,
4 costs, and expenses for a proceeding under this section;

5 (d) sell or transfer real or personal property or
6 transfer real or personal property to the payee, even if the
7 property is exempt from execution;

8 (e) borrow the arrearage amount or report to the
9 district court all efforts to borrow the sum;

10 (f) meet any combination of the conditions in
11 subsections (10)(a) through (10)(e); or

12 (g) meet any other conditions that the district court
13 in its discretion finds reasonable.

14 (11) If the obligated person fails to comply with
15 conditions for purging contempt, the district court shall
16 immediately find the obligated person in contempt under this
17 section and impose punishment.

18 (12) A proceeding under this section must be brought
19 within 3 years of the date of the last failure to comply
20 with the support order.

21 **Section 2.** Section 40-5-403, MCA, is amended to read:

22 **"40-5-403. Definitions.** As used in this part, the
23 following definitions apply:

24 (1) "Alternative arrangement" means a written agreement
25 signed by the obligor and obligee, and signed by the

1 department in the case of an assignment of rights under
2 53-2-613, that has been approved and entered in the record
3 of the court or administrative authority issuing or
4 modifying the support order.

5 (2) "Department" means the department of social and
6 rehabilitation services provided for in 2-15-2201.

7 (3) "Income" means any form of periodic payment to a
8 person, including earnings and wages. However, income does
9 not include:

10 (a) any amount required by law to be withheld, other
11 than creditor claims, including federal, state, and local
12 taxes and social security; and

13 (b) any amounts exempted from judgment, execution, or
14 attachment by federal or state law.

15 (4) "Obligee" means either a person to whom a duty of
16 support is owed or a public agency of this or another state
17 to which a person has assigned the right to receive current
18 and accrued support payments.

19 (5) "Obligor" means a person who owes a duty to make
20 payments under a support order.

21 (6) "Payor" means any payor of income to an obligor on
22 a periodic basis and includes any person, firm, corporation,
23 association, employer, trustee, political subdivision, state
24 agency, or any agent thereof, who is subject to the
25 jurisdiction of the courts of this state under Rule 4B of

1 the Montana Rules of Civil Procedure.

2 (7) "Support order" means an order of the district
3 court of the state of Montana, an order of a court of
4 appropriate jurisdiction of another state, an administrative
5 order established pursuant to proceedings under part 2 of
6 this chapter, or an order established by administrative
7 hearing process of an agency of another state with functions
8 similar to those of the department set forth in part 2 of
9 this chapter, that provides a set and determinable amount
10 for temporary or final periodic payment of funds for the
11 support of a child. Support order further includes the
12 following:

13 (a) an order for reimbursement of public assistance
14 money paid by a public agency for the benefit of a minor
15 child;

16 (b) an order for maintenance to be paid to a former
17 spouse when the former spouse is the custodial parent of a
18 child for whom child support is awarded under the same
19 order; and

20 (c) an order requiring payment of interest due on
21 unpaid judgments for child support.

22 (8) "Union" means a labor union, union local, union
23 affiliate, or union hiring hall."

24 **Section 3.** Section 40-5-443, MCA, is amended to read:

25 **"40-5-443. Payors to provide information -- exemption**

from liability. (1) Upon notice by the department and except as provided in ~~subsections-(2)-and-(3)~~ SUBSECTION (2), an employer or payor doing business in this state shall report to the department:

(a) the hiring of an individual who resides or works in this state;

(b) a contract or subcontract with an individual who resides or works in this state; and

(c) the rehiring or return to work of an employee, contractor, or subcontractor.

(2) An employer is not required to report the hiring of an individual who the employer anticipates will be employed for less than 1 month or will be sporadically employed for less than 350 hours during any 6-month period.

~~(3)--An--employer--or--payor--is--not--required--to--report under this section if the employer employs or contracts with fewer than 10 persons--~~

~~(4)~~(3) A union operating in this state shall, upon notice by the department, provide the department with information concerning the employment of its members.

~~(5)~~(4) An employer, payor, or union required to report under this section shall submit to the department monthly reports containing its name, address, and employment security reference number or unified business identifier number and the name, last-known residential address, social

security number, and date of birth of each employee that was hired or rehired or that returned to work during the preceding month. The report may be made in writing or by computer on a form or in a format supplied by the department or by other means acceptable to the department.

~~(6)~~(5) The department may retain the reported information concerning an employee, contractee, or member only if the department is responsible for establishing, enforcing, or collecting a support obligation of that person. THE INFORMATION MUST BE KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT BE DISSEMINATED BY IT. If the person does not owe a support obligation, the department may not create a record regarding the person and the information must be promptly destroyed.

~~(7)~~(6) ~~For the purposes of this part, upon~~ Upon written request by the department, a present or former employer, payor, or former payor and any labor or union of which the obligor a person is or may have been a an employee, contractee, or member shall provide the department with the following information, if known, regarding the obligor person:

(a) last-known residential address;

(b) social security number;

(c) dates of employment or union membership or dates of the term of the contract;

(d) amounts of wages, salaries, commissions, and other earnings paid to the obligor person during any period when the department provided support enforcement services; and

(e) whether health insurance coverage is or was available to the obligor person and the person's children through the employer, payor, or union and, if so:

(i) the name of the insurer or health care provider;

(ii) the policy numbers or other identifiers; and

(iii) the persons covered;

(f) the location of the job site; and

(g) any occupational or professional affiliations or licenses required for the employment or contract.

~~(8)~~(7) The department shall give an employer, payor, or union failing to report as required by this section a written warning. Upon further failure to report, the department may impose a civil penalty not to exceed \$1,000 for each month for each reportable person. The department shall adopt rules, under Title 2, chapter 4, and 40-5-405, stating administrative hearing and other procedures implementing this subsection.

~~(9)~~(8) To cover the report costs, an employer, payor, or union required to report under this section may charge and withhold from the wages or other income of each reported person a fee not to exceed \$5 \$3 for each report covering the person.

~~(2)~~(18)(9) A An employer, payor, or union who discloses information to the department in compliance with this section is exempt from any liability to the obligor reported person that may result from such the disclosure."

NEW SECTION. Section 4. Paternity acknowledgment. (1)

Upon the birth of a child to a woman unmarried at the time of birth, the administrator or person in charge of a hospital or other institution in which the birth occurs or the midwife who attends the birth shall:

(a) provide an opportunity for the child's mother and alleged father to complete an acknowledgment of parentage pursuant to 40-6-105;

(b) provide written information, furnished by the department, describing the rights and responsibilities of parentage, the benefits of having a child's paternity established, and the child's right to receive support; and

(c) forward a copy of an acknowledgment signed by the mother and the father to the department.

(2) The hospital, institution, or midwife is entitled to reimbursement for reasonable costs of obtaining an acknowledgment. The department shall establish by rule the amount of reasonable costs, not to exceed the amount for which federal financial participation is available, and the procedures for claiming reimbursement.

(3) Hospitals, institutions, and midwives shall use

1 forms prescribed by the department for the acknowledgment of
2 paternity.

3 NEW SECTION. Section 5. Definitions. As used in
4 [sections 5 through 12], the following definitions apply:

5 (1) (a) "Child" means:

6 (i) a person under 18 years of age who is not
7 emancipated, self-supporting, married, or a member of the
8 armed forces of the United States;

9 (ii) a person under 19 years of age who is still in high
10 school;

11 (iii) a person who is mentally or physically
12 incapacitated when the incapacity began prior to that person
13 reaching 18 years of age; and

14 (iv) in IV-D cases, a person for whom:

15 (A) support rights are assigned under 53-2-613;

16 (B) a public assistance payment has been made;

17 (C) the department is providing support enforcement
18 services under 40-5-203; or

19 (D) the department has received a referral for
20 interstate services from an agency of another state under
21 the provisions of the Uniform Reciprocal Enforcement of
22 Support Act or under Title IV-D of the Social Security Act.

23 (b) The term may not be construed to limit the ability
24 of the department to enforce a support order according to
25 its terms when the order provides for support extending

1 beyond the time the child reaches 18 years of age.

2 (2) "Delinquency" means a support debt or support
3 obligation due under a support order in an amount greater
4 than or equal to 6 months' support payments as of the date
5 of service of a notice of intent to suspend a license.

6 (3) "Department" means the department of social and
7 rehabilitation services.

8 (4) "IV-D case" means a case in which the department is
9 providing support enforcement services as a result of:

10 (a) an assignment of support rights under 53-2-613;

11 (b) a payment of public assistance;

12 (c) an application for support enforcement services
13 under 40-5-203; or

14 (d) a referral for interstate services from an agency
15 of another state under the provisions of the Uniform
16 Reciprocal Enforcement of Support Act or under Title IV-D of
17 the Social Security Act.

18 (5) "License" means a license, certificate,
19 registration, or authorization issued by an agency of the
20 state of Montana granting a person a right or privilege to
21 engage in a business, occupation, or profession or any other
22 right or privilege that is subject to suspension,
23 revocation, forfeiture, or termination by the licensing
24 authority prior to its date of expiration.

25 (6) "Licensing authority" means any department,

1 division, board, agency, or instrumentality of this state
2 that issues a license.

3 (7) "Obligee" means:

4 (a) a person to whom a support debt or support
5 obligation is owed; or

6 (b) a public agency of this or another state that has
7 the right to receive current or accrued support payments or
8 that is providing support enforcement services under this
9 chapter.

10 (8) "Obligor" means a person who owes a duty of
11 support.

12 (9) "Order suspending a license" means an order issued
13 by a support enforcement entity to suspend a license. The
14 order must contain the name of the obligor, the type of
15 license, and, if known, the social security number of the
16 obligor.

17 (10) "Payment plan" includes but is not limited to a
18 plan approved by the support enforcement entity that
19 provides sufficient security to ensure compliance with a
20 support order and that incorporates voluntary or involuntary
21 income withholding under part 3 or 4 of this chapter or a
22 similar plan for periodic payment of a support debt and, if
23 applicable, current and future support.

24 (11) "Support debt" or "support obligation" means the
25 amount created by:

1 (a) the failure to provide support to a child under the
2 laws of this or any other state or a support order; or

3 (b) a support order for spousal maintenance if the
4 judgment or order requiring payment of maintenance also
5 contains a judgment or order requiring payment of child
6 support for a child for whom the person awarded maintenance
7 is the custodial parent.

8 (12) "Support enforcement entity" means:

9 (a) in IV-D cases, the department; or

10 (b) in all other cases, the district court that entered
11 the support order or a district court in which the support
12 order is registered.

13 (13) "Support order" means an order providing THAT
14 PROVIDES a determinable amount for temporary or final
15 periodic payment of a support debt or support obligation AND
16 THAT MAY INCLUDE PAYMENT OF A DETERMINABLE OR INDETERMINABLE
17 AMOUNT FOR INSURANCE COVERING THE CHILD issued by:

18 (a) a district court of this state;

19 (b) a court of appropriate jurisdiction of another
20 state, an Indian tribe, or a foreign country;

21 (c) an administrative agency pursuant to proceedings
22 under Title 40, chapter 5, part 2; or

23 (d) an administrative agency of another state with a
24 hearing function and process similar to those of the
25 department.

NEW SECTION. Section 6. Notice of intent to suspend license. (1) Upon the petition of an obligee alleging the existence of a delinquency, a support enforcement entity may issue a notice of intent to suspend a license.

(2) The notice must be served upon the obligor personally or by certified mail and may:

(a) in a IV-D case, be incorporated into any notice served under Title 17, chapter 4, part 1, or Title 40, chapter 5, part 2 or 4;

(b) in all other cases, be combined with any other enforcement proceeding.

(3) The notice must state that the obligor's license will be suspended 60 days after service unless within that time the obligor:

(a) pays the entire support debt stated in the notice;

(b) enters into a payment plan approved by the support enforcement entity; or

(c) appears and shows cause in a hearing before the support enforcement entity under [section 7] that suspension of a license is not appropriate.

(4) In a IV-D case, the notice must advise the obligor that hearings conducted under [section 7] are subject to the contested case provisions of the Montana Administrative Procedure Act.

NEW SECTION. Section 7. Hearing -- order suspending

license. (1) To show cause why suspension of a license would not be appropriate, the obligor shall request a hearing from the support enforcement entity that issued the notice of intent to suspend the license. The request must be made within 60 days of the date of service of the notice.

(2) Upon receipt of a request for hearing from an obligor, the support enforcement entity shall schedule a hearing for the purpose of determining if suspension of the obligor's license is appropriate. The support enforcement entity shall stay suspension of the license pending the outcome of the hearing.

(3) The only issues that may be determined in a hearing under this section are the amount of the support debt or support obligation, if any, whether or not a delinquency exists, and whether or not the obligor has entered into a payment plan.

(4) If an obligor fails to respond to a notice of intent to suspend a license, fails to timely request a hearing, or fails to appear at a regularly scheduled hearing, the obligor's defenses, objections, or request for a payment plan must be considered to be without merit and the support enforcement entity shall enter a final decision and order accordingly.

(5) If the support enforcement entity determines that the obligor owes a delinquency and that the obligor has not

entered into a payment plan, the support enforcement entity shall issue an order suspending the obligor's license and ordering the obligor to refrain from engaging in the licensed activity. The support enforcement entity shall send a copy of the order suspending a license to the licensing authority and the obligor.

(6) The determinations of the department under this section are a final agency decision and are subject to judicial review under 40-5-253 and the Montana Administrative Procedure Act.

(7) A determination made by the support enforcement entity under [sections 5 through 12] is independent of any proceeding of the licensing authority to suspend, revoke, deny, terminate, or renew a license.

NEW SECTION. Section 8. Suspension, denial, and nonrenewal of licenses. (1) Upon receipt of an order suspending a license, a licensing authority shall implement the suspension of the license by:

(a) determining if it has issued a license to the obligor whose name appears on the order;

(b) entering the suspension on the appropriate records;

(c) reporting the suspension as appropriate; and

(d) if required by law, demanding surrender of the suspended license.

(2) An order issued by a support enforcement entity

under [section 7] suspending a license must be processed by the licensing authority without an additional review or hearing by the licensing authority concerning suspension of the license.

(3) During the term of a suspension under [sections 5 through 12], the licensing authority may not issue or renew the obligor's license.

(4) Notwithstanding the provisions of any other law setting terms of suspension, revocation, denial, termination, or renewal of a license, an order issued by a support enforcement entity suspending a license continues until the support enforcement entity advises the licensing authority that the suspension has been stayed or terminated.

(5) In the event that a license is suspended, any funds paid by the obligor to the licensing authority for costs related to issuance, renewal, or maintenance of a license may not be refunded to the obligor.

(6) Unless an order staying suspension of a license is in effect, an obligor who continues to engage in the business, occupation, profession, or other licensed activity while the license is suspended under this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than \$250 or more than \$500 or by imprisonment in the county jail for a term not to exceed 6 months, or both. Upon conviction of a second or subsequent

violation, the obligor shall be punished by a fine of not less than \$500 or more than \$2,000 or by imprisonment in the county jail for a term not to exceed 1 year, or both. The support enforcement entity or the licensing authority may elect the remedy under this section or any other remedy provided for engaging in a licensed activity without a license or while the license is suspended.

(7) The licensing authority is exempt from liability to the licensee for activities conducted in compliance with [sections 5 through 12].

(8) The licensing authority has no jurisdiction to modify, remand, reverse, vacate, or stay the order of the support enforcement entity suspending a license.

NEW SECTION. Section 9. Stay of suspension of license

-- **payment plan -- hardship.** (1) An obligor may at the time of the hearing conducted under [section 7] or at any time after the hearing petition the support enforcement entity for an order staying suspension of the license.

(2) The support enforcement entity shall consider the obligor's petition for a stay separately from any determination on whether suspension of a license is appropriate.

(3) The support enforcement entity may stay suspension of a license upon a showing that suspension or continued suspension of a license would create a significant hardship

to the obligor, to the obligor's employees, to legal dependents residing in the obligor's household, or to persons, businesses, or other entities served by the obligor.

(4) A stay terminates upon:

(a) termination of the circumstances upon which a hardship is based;

(b) failure by the obligor to abide by the terms and conditions of a payment plan; or

(c) the date of termination, if any, provided in the order staying suspension of the license.

(5) If the licensing authority has been notified of an order suspending a license, the support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the licensing authority and the obligor.

(6) (a) Upon receipt of an order staying or reinstating suspension of the license, the licensing authority shall:

(i) enter the information on appropriate records;

(ii) report the action as appropriate; and

(iii) demand surrender of the suspended license or return the reinstated license.

(b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of suspension of the license.

1 NEW SECTION. **Section 10.** Termination of order to
 2 suspend license. (1) When the support enforcement entity
 3 determines that the support debt or support obligation is
 4 paid in full, it shall terminate the order suspending the
 5 license. The support enforcement entity shall send a copy of
 6 the order terminating the suspension of the license to the
 7 licensing authority and the obligor.

8 (2) Entry of an order terminating suspension of a
 9 license does not limit the ability of a support enforcement
 10 entity to issue a new order suspending the license of the
 11 same obligor in the event of another delinquency.

12 NEW SECTION. **Section 11.** Fees. A licensing authority
 13 subject to [sections 5 through 12] may charge the obligor a
 14 fee to cover the administrative costs incurred by the
 15 licensing authority under [sections 5 through 12].

16 NEW SECTION. **Section 12.** Rulemaking authority. The
 17 department shall adopt rules necessary for the
 18 implementation and administration of [sections 5 through
 19 11].

20 NEW SECTION. **Section 13.** Codification instruction. (1)
 21 [Section 4] is intended to be codified as an integral part
 22 of Title 50, chapter 15, part 2, and the provisions of Title
 23 50, chapter 15, apply to [section 4].

24 (2) [Sections 5 through 12] are intended to be codified
 25 as an integral part of Title 40, chapter 5, and the

1 provisions of Title 40, chapter 5, apply to [sections 5
 2 through 12].

3 NEW SECTION. **Section 14.** Coordination instruction. If
 4 both Senate Bill No. 217 and [this act], containing
 5 [sections 5 through 12], are passed and approved, Senate
 6 Bill No. 217 is void.

7 NEW SECTION. **Section 15.** Severability. If a part of
 8 [this act] is invalid, all valid parts that are severable
 9 from the invalid part remain in effect. If a part of [this
 10 act] is invalid in one or more of its applications, the part
 11 remains in effect in all valid applications that are
 12 severable from the invalid applications.

-End-

COMMITTEE--HOUSE APPROPRIATIONS

Page 5

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0392	GERVAIS, FLOYD		APPROPRIATE TO ASSIST NONBENEFICIARY STUDENTS AT TRIBAL COMMUNITY COLLEGES						
	1/30					VOTE:			
HB0400	WANZENRIED, DAVID		FEES FOR RADIATION SERVICES ESTABLISHED BY RULE, SPECIAL REVENUE ACCOUNT						
	3/12					VOTE:			
HB0401	KADAS, MIKE		A LOAN APPROPRIATION FOR THE CLARK FORK NATURAL RESOURCE DAMAGE CLAIM						
	1/30	2/05		DO PASS	3/5	VOTE: 10-8			3/08
HB0425	KADAS, MIKE		STATE REVENUE BOND AUTHORITY ADMINISTRATIVE CONSOLIDATION						
	2/02	2/09		PASS AS AMENDED	2/18	VOTE: 12-5			2/19
HB0427	COBB, JOHN		REVISE PUBLIC ASSISTANCE LAWS						
	2/02	2/23		PASS AS AMENDED	3/18	VOTE: 14-4	APPROPRIATIONS		2/24
HB0427	COBB, JOHN		REVISE PUBLIC ASSISTANCE LAWS						
	3/17			PASS AS AMENDED	2/23	VOTE: 13-5			3/19
HB0428	HARPER, HAL		EXTEND FUNDING FOR THE VOLUNTARY STATEWIDE GENETICS PROGRAM						
	2/02	2/09		DO PASS	2/16	VOTE: 13-5			2/18
HB0471	SIMPKINS, RICHARD		REDUCE FOUNDATION PROGRAM SCHEDULES; PROVIDE SCHOOL REVENUE; ADD VOTED GTB						
	2/04	2/10		PASS AS AMENDED	2/16	VOTE: 9-8			2/18
HB0474	PETERSON, MARY LOU		REQUIRE COUNTY ATTORNEY FUNDING IN BUDGET PROCESS						
	2/05	3/03		DO PASS	3/5	VOTE: 18-0			3/10
HB0480	HARPER, HAL		ESTABLISH STATE PARKS MAINTENANCE TRUST WITH PERCENTAGE OF RIT FUND REVENUE						
	2/05	2/09		PASS AS AMENDED	2/16	VOTE: 10-8			2/18
HB0482	BOHLINGER, JOHN		CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; SUSPENSION OF STATE LICENSES						
	2/19			DO PASS	3/5	VOTE: 18-0			3/10
HB0483	TOOLE, HOWARD		REQUIRE MORE THAN ONE DUI TEST, UNLESS 1ST TEST IS FOR ALCOHOL & IS FAILED						
	2/19			DO PASS	3/12	VOTE: 13-5			3/16

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By REP. TOM ZOOK, on March 5, 1993, at 3:15 P.M.

ROLL CALL

Members Present:

Rep. Tom Zook, Chairman (R)
Rep. Ed Grady, Vice Chairman (R)
Rep. Francis Bardanouve (D)
Rep. Ernest Bergsagel (R)
Rep. John Cobb (R)
Rep. Roger DeBruycker (R)
Rep. Marj Fisher (R)
Rep. John Johnson (D)
Rep. Royal Johnson (R)
Rep. Mike Kadas (D)
Rep. Betty Lou Kasten (R)
Rep. Red Menahan (D)
Rep. Linda Nelson (D)
Rep. Ray Peck (D)
Rep. Mary Lou Peterson (R)
Rep. Joe Quillici (D)
Rep. Dave Wanzenried (D)
Rep. Bill Wiseman (R)

Members Excused: None

Members Absent: None

Staff Present: Terry Cohea, Legislative Fiscal Analyst
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: None
Executive Action: HB 401, HB 474, HB 482, HB 585, HB 46,
HB 16, HB 284, HB 608

EXECUTIVE ACTION ON HB 401

Discussion: REP. KADAS said this bill funds the litigation over the Clark Fork Natural Resources damage claim. The issue that was brought up was whether we could use coal trust money to fund this rather than general fund money to fund the loan. He offered amendments to use trust fund money. The question that arose out

fund, it would not effect the targets. What it would effect is the cash balance and would decrease it by \$2 million. The fund balance would be unchanged because it would be recorded as an asset in the general fund.

Motion/Vote: REP. KADAS withdrew the amendments and moved HB 401 DO PASS. (General Fund Loan). Motion carried 10 - 8 with Reps. Grady, Bergsagel, Cobb, DeBruycker, Kasten, Peterson, Wiseman and Zook voting no.

EXECUTIVE ACTION ON HB 474

Discussion: REP. PETERSON said the subcommittee had this bill rather early when the supplementals came through. A portion of the county attorney's salary comes in as a supplemental because those counties that change from part-time to full-time would do that sometime during the two-year period after the legislature had met. They would then have to back-fill that money. This bill simply asks those counties and those county attorneys, if they want to go full-time, to pay that and then that request would come in with the Justice Department's budget so it isn't coming in as a supplemental.

Motion/Vote: REP. PETERSON moved HB 474 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON HB 482

Discussion: REP. JOHN BOHLINGER, HD 94 said in his district there are a lot of single women with children, children who have been abandoned by their fathers and children who are forced to live on whatever financial support their mothers can put together, either through loans or financial aid from their families or from whatever financial support they can receive from the state of Montana. When a family finds itself in a situation like this, it calls upon the SRS for assistance. Last year the state of Montana provided nearly \$55 million financial aid to these children. Of the 41,000 cases the Child Support Enforcement Division is dealing with, nearly half are on welfare and the intent of this bill is to make the responsible party support their children. The principle features of this bill are: 1) To establish paternity at the time of birth: 2) To have a reporting requirement for employers who would notify the Child Support Enforcement Division of any new hiring: 3) if we find that an obligor is in non-compliance of a state court-ordered payment, we would notify this person if they did not make arrangements to bring themselves current and then their license with the state of Montana could be in jeopardy. It provides the obligor an appearance before a judge who would give that person an opportunity to explain why they are not current in their obligation. If there has been a change of employment and a person is not able to meet the original court obligation, a new scheduled payment can be arrived at.

The intent of this bill is to put the obligation where it belongs and that is on the parent and not on the state of Montana. He feels this bill should have a significant, positive fiscal impact on the state of Montana and it would reduce, substantially, the nearly \$55 million paid out annually in AFDC payments.

CHAIRMAN ZOOK said this Committee hadn't heard this bill because it was referred but they did have it on the floor.

Ms. Cohea said the executive budget contains sufficient resources for the program to absorb these duties so there is no additional cost for the agency. Additional cost to the Child Support Division will be negligible. Increased collections to the Division may result in a cost savings in the AFDC and GA program. However, the magnitude of the savings is not measurable. Collections of child support are expected to increase by nearly \$400,000 in FY 1994 and \$1.8 million in FY 1995.

Motion/Vote: REP. ROYAL JOHNSON moved HB 482 DO PASS. Motion carried unanimously.

CHAIRMAN ZOOK said he would have the Speaker explain to him why, when bills are referred to this committee and they don't amend them, why they have to go back on second reading since they have already been on second reading and passed.

Motion/Vote: REP. ROYAL JOHNSON moved HB 482 put on the Consent Calendar. Motion carried unanimously.

EXECUTIVE ACTION ON HB 579

Motion: REP. BARDANOUVE moved HB 579 DO PASS.

Discussion: REP. PETERSON said she has just submitted a bill from the General Government subcommittee concerning the Montana Community Volunteer Service Act and it is a wider encompassing bill than this one but when they get the bills together, they will dovetail. The bill she is introducing will be chaired and coordinated out of the Governor's office and this might just fit in that process too. CHAIRMAN ZOOK asked if there is a fiscal impact on the general fund in her bill? REP. PETERSON said the source of funding would be UI Admin. REP. BARDANOUVE asked REP. PETERSON how soon will we have that bill? REP. PETERSON was in the clerk's office and she did not know what the process timing is. REP. BARDANOUVE asked if this bill could be held and coordinated with REP. PETERSON's bill. CHAIRMAN ZOOK said we don't know if her bill is in trouble somewhere, however, he does not see a big problem.

REP. PECK said if he was REP. RUSSELL he would be concerned about that because there is some public money in REP. PETERSON's bill. REP. RUSSELL's does not have any.

REP. WANZENRIED said the Human Services subcommittee did not

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

COMMITTEE

ROLL CALL

DATE 3/5/93 P.m

NAME	PRESENT	ABSENT	EXCUSED
REP. ED GRADY, V. CHAIR	✓		
REP. FRANCIS BARDANOUVE	✓		
REP. ERNEST BERGSAGEL	✓		
REP. JOHN COBB	✓		
REP. ROGER DEBRUYKER	✓		
REP. MARJ. FISHER	✓		
REP. JOHN JOHNSON	✓		
REP. ROYAL JOHNSON	✓		
REP. MIKE KADAS	✓		
REP. BETTY LOU KASTEN	✓		
REP. WM. "RED" MENEHAN	✓		
REP. LINDA NELSON	✓		
REP. RAY PECK	✓		
REP. MARY LOU PETERSON	✓		
REP. JOE QUILICI	✓		
REP. DAVE WANZENREID	✓		
REP. BILL WISEMAN	✓		
REP. TOM ZOOK, CHAIR	✓		

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

COMMITTEE

ROLL CALL VOTE

DATE 3/5/93 pm BILL NO. HB 482 NUMBER MOTION: Rep. Royal Johnson moved HB 482 DO PASS.

Motion carried unanimously.

NAME	AYE	NO
REP. ED GRADY, V, CHAIR	X	
REP. FRANCIS BARDANOUVE	X	
REP. ERNEST BERGSAGEI	X	
REP. JOHN COBB	X	
REP. ROGER DEBRUYKER	X	
REP. MARJ. FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. RED MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK	X	
REP. MARY LOU PETERSON	X	
REP. JOE QUILICI	X	
REP. DAVE WENZENREID	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIR	X	
	18	0

HOUSE OF REPRESENTATIVES

APPROPRIATIONS

COMMITTEE

ROLL CALL VOTE

DATE 3/5/93 pm BILL NO. HB 482 NUMBER MOTION: Rep. Royal Johnson moved HB 482 put on the ConsentCalendar. Motion carried unanimously.

NAME	AYE	NO
REP. ED GRADY, V, CHAIR	X	
REP. FRANCIS BARDANOUVE	X	
REP. ERNEST BERGSAGEI	X	
REP. JOHN COBB	X	
REP. ROGER DEBRUYKER	X	
REP. MARJ. FISHER	X	
REP. JOHN JOHNSON	X	
REP. ROYAL JOHNSON	X	
REP. MIKE KADAS	X	
REP. BETTY LOU KASTEN	X	
REP. WM. RED MENAHAN	X	
REP. LINDA NELSON	X	
REP. RAY PECK	X	
REP. MARY LOU PETERSON	X	
REP. JOE QUILLICI	X	
REP. DAVE WANTZENREID	X	
REP. BILL WISEMAN	X	
REP. TOM ZOOK, CHAIR	X	
	18	0

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Appropriation COMMITTEE BILL NO. _____
DATE 3/5/93 pm SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Jim Hinson</i>	<i>NRIS /MSL</i>		
<i>W. H. H. H.</i>	<i>CSED HB482</i>	<i>✓</i>	
<i>Lewis Carleton</i>	<i>CSED HB482</i>	<i>✓</i>	
<i>John McBee</i>	<i>CSED HB482</i>	<i>✓</i>	

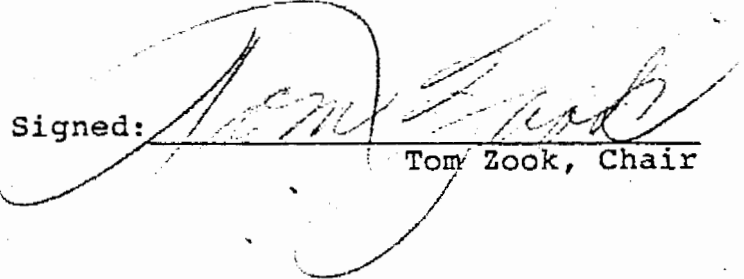
PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE STANDING COMMITTEE REPORT

March 8, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Appropriations report that House Bill 482 (third reading copy -- blue) do pass and be placed on consent calendar.

Signed: 

Tom Zook, Chair

Committee Vote:
Yes __, No __.

521403SC.Hpf 2/1/93

COMMITTEE--SENATE JUDICIARY

Page 4

- BILL NO - REFERRED - HEARING - OTHER CONSIDERATION DATES - EXECUTIVE ACTION/DATE/VOTE - REREFERRED - DATE READ

HB0405	FISHER, MARJORIE	2/20	3/03	3/12	CREATE CRIMINAL OFFENSE OF RITUAL ABUSE OF A MINOR	CONCUR AS AMENDED 3-27	3/30
HB0409	PAVLOVICH, BOB	2/16	3/08		SET REQUIREMENTS NECESSARY TO WAIVE INDIGENTS' FILING FEES IN COURT ACTIONS	CONCUR AS AMENDED 3-15	3/15
HB0411	JOHNSON, ROYAL	2/22	3/17		DEPT. OF JUSTICE SUBSTANTIVE CHANGES TO GAMBLING LAWS	CONCUR 3-26	3/27
HB0416	STRIZICH, BILL	3/01	3/16		REQUIRE REPORTING OF HATE CRIMES	CONCUR AS AMENDED 3-26	3/30
HB0429	STRIZICH, BILL	2/20	3/05	3/08	MAKE MANUFACTURE OF DANGEROUS DRUGS A SEPARATE OFFENSE; RAISE PENALTY	CONCUR AS AMENDED 3-17	3/18
HB0468	RICE, JIM	2/20	3/15		PREFERENCE FOR COMMITMENT TO DEPT. CORRECTIONS, NOT STATE PRISON	CONCUR AS AMENDED 3-26	3/29
HB0474	PETERSON, MARY LOU	3/18	3/25		REQUIRE COUNTY ATTORNEY FUNDING IN BUDGET PROCESS	CONCUR 3-26	3/27
HB0482	BOHLINGER, JOHN	3/18	3/25		CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; SUSPENSION OF STATE LICENSES	CONCUR AS AMENDED 3-27	3/30
HB0496	WYATT, DIANA	2/20	3/12		REVISE THE MONTANA HUMAN RIGHTS LAWS	CONCUR AS AMENDED 3-15	3/15
HB0499	COBB, JOHN	2/20	3/11		REVISE BOARD OF BAR EXAMINERS	CONCUR 3-11	3/16
HB0502	BARNETT, JOE	3/01	3/08		REVISE BAIL FORFEITURE & REQUIRE RETURN OF BOND WITHIN 30 DAYS OF CONVICTION	CONCUR 3-8	3/08
HB0506	TASH, BILL	3/01	3/16		ALLOW NONPROFIT RAFFLE FOR LAND WORTH MORE THAN \$5,000	CONCUR 3-22	3/23

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 25, 1993, at 10:00 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan
Sen. John Harp (R)
Sen. David Rye (R)

Members Excused: Sen. Crippen, Sen. Towe

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: HB 474
HB 482
HB 576
Executive Action: NONE

HEARING ON HB 576

Opening Statement by Sponsor:

Representative Endy, District 74, said HB 576 proposes a constitutional amendment of article 2, section 12 which protects a citizens right to bear arms for lawful hunting, recreational use, and other lawful purposes. HB 576 would strengthen the right to bear arms.

Proponents' Testimony:

Bob Lane, Department of Fish, Wildlife, and Parks, read from

prepared testimony. (Exhibit #1)

Jim Richards, Montana Wildlife Federation, (MWF), said the sportsman of Montana supported HB 576 because it gives a constitutional recognition to hunting. The MWF strongly urged the Committee to strike the language on line 16, "and for other lawful purposes," because it is was inappropriate for constitutional language.

Star Bradshaw, Montana Bowhunters Association, supported HB 576.

Opponents' Testimony:

NONE

Questions From Committee Members and Responses:

Senator Brown asked Rep. Endy if the National Rifleman's Association was in favor of HB 576. Rep. Endy told the Committee that he was unsure about their position concerning HB 576.

Senator Brown asked Rep. Endy about striking the language that Mr. Richards suggested. Rep. Endy said he would support the striking of the language.

Senator Blaylock asked Rep. Endy if anyone has not been able to hunt or use their guns for recreational purposes in Montana as long as it was lawful. Rep. Endy said not to his knowledge.

Senator Doherty asked Valencia Lane about striking the language on line 16. Ms. Lane said there were four places, one in the title and three in the body of the bill, that would have to be stricken.

Senator Doherty asked Mr. Lane about striking the language on line 16. Mr. Lane said the bill would be cleaner and better if the language was struck from HB 576.

Chair Yellowtail asked Mr. Lane if HB 576 would imply any right to hunt within the borders of Montana. Mr. Lane said with the wording, "for lawful hunting and recreational use," it does not establish any constitutional right for hunting or recreational purposes itself. HB 576 would establish another purpose for which a person could establish the right to bear arms. Mr. Lane said HB 576 would not establish any right to hunting or other recreation use that is already constitutional right.

Closing by Sponsor:

Rep. Endy closed.

Opening Statement by Sponsor:

Representative Bohlinger, District 94, submitted a review of HB 482. (Exhibit #2). Rep. Bohlinger told the Committee that present laws dealing with delinquent parents are not working and consequently the State of Montana has to provide financial aid to those families. Therefore, HB 482 was drafted.

Proponents' Testimony:

Steve Meloy, Department of Commerce, read from prepared testimony. (Exhibit #3) Mr. Meloy submitted amendments. (Exhibit #4)

Mary Ann Wellbank, Child Support Enforcement Division, (CSED) told the Committee that the Child Enforcement Division supported HB 482. The CSED worked very closely with Rep. Bohlinger to make HB 482 work for the state. Ms. Wellbank said child support is an integral part of welfare reform and many Montana children are not receiving support they deserve. Ms. Wellbank said many parents have the means to pay, but choose not to pay child support. HB 482 would require employers to report new employees within 30 days after employment, therefore allowing the CSED to identify where those people are and serve them with an immediate income withholding order. Ms. Wellbank said hospitals are willing to establish paternity. Establishing paternity would allow the child to have benefits that may be due, such as social security. It could also save potential medicaid costs.

Kate Cholewa, Montana Womens Lobby, said the inability to collect child support payments impoverishes women and children in Montana. Ms. Cholewa said women and children are living in poverty because they do not receive their child support payments. The price for not receiving child support payments is high for families, children, and the tax payers who are picking up the tab. Ms. Cholewa urged support for HB 482.

Katherine Orr, Department of Health, told the Committee that they supported HB 482, but some coordinating language needed to be included in HB 482. Ms. Orr suggested that the language in section 8, on page 20, line 3, be changed to read "a review or hearing involving a licensing authority." Ms. Orr also suggested changing the language on page 21, lines 8 through 10 to read, "the licensing authority is exempt from liability or any obligation to the licensee under the Montana Administrative procedure act for activities conducted in compliance with these sections." Ms. Orr told the Committee the Department of Health supported the amendments proposed by the Department of Commerce.

Peter Funk, Department of Justice, told the Committee that they strongly supported HB 482. Mr. Funk pointed out the language on page 14, which involved the definition of licenses. Mr. Funk said the definition has two sections. The first section refers to professional and occupational licenses. The second section refers to any other right or privilege that is subject to

suspension, revocation, forfeiture, or termination by the licensing authority prior to the date of expiration. Mr. Funk said the definition would include all types of licenses, including vehicle registration and license plates. Mr. Funk said the Department of Justice was not opposed to that idea, but wanted the Committee to be aware of all the licenses that HB 482 would effect.

Opponents' Testimony:

Chuck Braun read from prepared testimony. (Exhibit #5)

Questions From Committee Members and Responses:

Senator Grosfield asked Mr. Funk about the sentencing on page 5, lines 16 through 20. Mr. Funk said in the absence of additional language in HB 482, the regular sentencing provisions which apply to suspension and deferral of criminal sentences would apply in this context. Although it looks like the court would not have any flexibility, the sentencing would not be absolutely mandatory.

Senator Grosfield asked Mr. Funk if the right to vote would be subject to suspension. Mr. Funk said he may not be qualified to answer the question, however, there are restrictions on voting for criminal sentenced individuals.

Chair Yellowtail said voting would be subject to suspension.

Mr. Funk told the Committee that it would be very debatable. Mr. Funk said the language talks about a licensing authority, therefore he does not think the right to vote would fall into that category because of its reference to a licensing authority. However, the language in HB 482 does lead to questions of this type.

Ms. Lane told the Committee that the right to vote is a right and not a privilege. HB 482 talks about taking away privileges that are granted through the licensing process. Taking away a license would not be the same as taking away the right to vote.

Senator Grosfield asked Ms. Lane about striking the words "right or" on line 22. Ms. Lane said striking the language would help clarify the intent. Ms. Lane suggested striking the entire phase.

Senator Rye asked Mr. Braun about his children. Mr. Braun told the Committee that he had four children.

Senator Rye asked Mr. Braun how much money he pays to his ex-wife. Mr. Braun told the Committee that he pays \$900.00 a month to his ex-wife and the government takes another 1/3 for taxes. Mr. Braun told the Committee that he was driven into bankruptcy, before that he had perfect credit.

Senator Rye asked Mr. Braun where he lived. Mr. Braun said Choteau, MT.

Senator Rye asked Mr. Braun where his ex-wife lived. Mr. Braun said Missoula.

Senator Rye asked Mr. Braun about paying child support. Mr. Braun told the Committee that he was not advocating that people should not pay child support. He said it was immoral to take that money from him.

Senator Rye asked Mr. Braun if he paid child support or alimony. Mr. Braun said he was paying child support. "If you take one dime from me, when you don't respect me, you are using me. You people are going to answer to this if you vote yes."

Senator Harp asked Ms. Wellbank if the Department of Social and Rehabilitation Services, (SRS) sponsored another child support bill. Mr. Wellbank said yes, SB 217. SB 217 spoke to the restriction of professional and licenses only.

Senator Harp asked Ms. Wellbank about SB 217. Ms. Wellbank said SB 217 was currently in the House.

Senator Harp asked Ms. Wellbank if HB 482 went a lot further than SB 217. Ms. Wellbank said yes.

Senator Harp asked Ms. Wellbank about the employer recording requirement. Ms. Wellbank told the Committee there was never a child support bill dealing with the self employed and the people that move from job to job. The employer recording section and the section that speaks to occupational licensing, would address those people. Ms. Wellbank told the Committee that HB 482 would be a cost savings to the CSED. Currently, CSED spends so much time and resources trying to find those people who do not pay child support. However, if those people were reported, the CSED could get an immediate income withholding.

Senator Harp asked Ms. Wellbank if there would be a cost to employers and unions in Montana. Ms. Wellbank said there would be a cost.

Senator Blaylock told the Committee that children are having children in Montana. Senator Blaylock said the child support bills heard during the session addressed a certain issue. Senator Blaylock told the Committee that he would like to see responsible sex education taught in schools. For women who are sexually active, birth devices should be made available, because teenage pregnancy will not stop unless social measures are taken to help the situation.

Rep. Bohlinger said that was a different subject and not related to HB 482. However, he said he was in complete agreement with Senator Blaylock, sex education needs to be in Montana schools.

Senator Grosfield told the Committee that if HB 482 passes, SB 217 would be void.

Senator Grosfield asked Ms. Wellbank if ALL employers would have to notify the CSED of new employees. Ms. Wellbank said some states that have this type of law require all employers to report, some states only target industries, like construction companies and hospital workers. Ms. Wellbank said she did not envision getting information from everyone. Ms. Wellbank told the Committee that there is a provision in HB 482 which allows for an employer to charge a small fee to cover the cost of the recording.

Chair Yellowtail asked Mr. McRae, Child Enforcement Division, if administrative agencies have the authority to impose a civil penalty. Mr. McRae said yes, other agencies have fines that are extremely high which can be found in the codes.

Chair Yellowtail asked Mr. McRae about the disposition of the funds. Mr. McRae said since there is no disposition provided for in HB 482, they would revert to the general fund.

Senator Bartlett asked Ms. Wellbank about reporting employees. Ms. Wellbank said employers would only report new employees.

Senator Harp asked Ms. Wellbank about rehiring employees. Ms. Wellbank said an employer is not required to report the hiring of an employee if the employee will be employed less than a month or sporadically employed for less than 350 hours during a six month period.

Chair Yellowtail told the Committee that page 9, line 9, calls for the reporting of the rehiring or return to work of an employee.

Closing by Sponsor:

Rep. Bohlinger said under the provisions of HB 482, hospitals and midwives would be reimbursed for whatever reasonable costs were incurred in providing paternity information. The information would be gathered on a form that is provided by the Child Support Enforcement Division. Rep. Bohlinger there were concerns regarding the employer reporting requirement. Rep. Bohlinger referred to page 9, line 1, which states, "upon notice by the Department." Rep. Bohlinger told the Committee not every employer in the State of Montana, each month, would have to send a list of all new employees to the CSED. Only if the employer had been identified as one the CSED wanted information from, would they have to submit the names of new employees. Rep. Bohlinger said the intent of HB 482 is not to take away a persons license to work, the intent is to bring people into compliance.

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 3-25-0

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	.		X
Senator Grosfield	X		
Senator Halligan	X		X
Senator Harp	X		
Senator Towe			X
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

A REVIEW OF HOUSE BILL 482

introduced by Representative John C. Bohlinger

AN ACT PROVIDING FOR CIVIL CONTEMPT FOR FAILURE TO SUPPORT,
AN ACT REQUIRING EMPLOYERS, PAYORS OR UNIONS TO
REPORT TO S.R.S. HIRING INFORMATION,
AN ACT PROVIDING A PATERNITY ACKNOWLEDGMENT PROCESS,
AN ACT PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES
FOR FAILURE TO PAY SUPPORT.

SUMMARY OF H.B. 482

1. SECTION 1. page 2, line 9, FAILURE TO PAY SUPPORT = CIVIL CONTEMPT.
2. SECTION 2. page 6, line 21, DEFINITIONS.
3. SECTION 3. page 8, line 24, PAYORS TO PROVIDE INFORMATION TO DEPARTMENT.
4. SECTION 4. page 12, line 2, PATERNITY ACKNOWLEDGMENT.
5. SECTION 5. page 12, line 25, DEFINITIONS
6. SECTION 6. page 16, line 21, NOTICE OF INTENT TO SUSPEND LICENSE.
7. SECTION 7. page 17, line 20, HEARING -- ORDER SUSPENDING LICENSES
8. SECTION 8. PAGE 19, LINE 10, SUSPENSION, DENIAL, AND NONRENEWAL OF LICENSES.
9. SECTION 9. PAGE 21, LINE 9, STAY OF SUSPENSION OF LICENSE PAYMENT PLAN -- HARDSHIP.
10. SECTION 10. PAGE 22, LINE 21, TERMINATION OF ORDER TO SUSPEND LICENSE.

Montana child support statistics

One out of every four babies born in Montana in 1991 was born to unmarried parents, up from one out of five in 1984. The child support enforcement division's staff of 120 people is now handling 38,000 cases of unpaid child support. Delinquent parents owe their children in Montana an estimated \$100 million. A little over half of the parents who ask the division for help are on welfare. Of the 11,000 Montana families who receive Aid to Families with Dependent Children, only 30 percent receive child support payments from an absent parent. Last year, child support services collected about \$20 million in late child support, up from \$8 million in 1989. Nationally, about half of all absent parents who have been ordered to pay child support don't. Montana's support division expects to be handling over 53,000 cases of unpaid child support by 1995. 95 percent of the cases handled by the collection agency are fathers who fail to pay for their children's support.

DEPARTMENT OF COMMERCE
PUBLIC SAFETY DIVISION

SENATE JUDICIARY COMMITTEE
SENATE BILL 3
3-25-93
HB482
111 N. JACKSON

STAN STEPHENS, GOVERNOR



STATE OF MONTANA

HELENA, MONTANA 59620-0407

Sen. Yellowtail and members of the Committee

My name is Steve Meloy and I am Bureau Chief of the Professional and Occupational Licensing Bureau of the Department of Commerce. As such, I supervise the office that licenses some 50,000 Montanans annually.

I was before this committee last month and testified in support of Senate Bill 217, a measure similar to House Bill 482 as it affects professional/occupational licenses. There are differences between the two bills, however, and I would like to address those:

-- Senate Bill 217 allowed for a non-disciplinary suspension. There is no such notation that a child-support enforcement action will be differentiated from a licensing action based on malpractice or unprofessional conduct.

-- Senate Bill 217 allowed that individuals who do possess the licenses but are delinquent with their child support would be allowed to renew their licenses while on nondisciplinary suspension. This is important since it insures that the license does not lapse. The individual cannot lawfully practice even though renewed until that delinquent child support is cured or alleviated and the non-disciplinary suspension is lifted. In the grand scheme of things, this insures that when the individual's non-disciplinary suspension is lifted, he or she will still have a license to pursue the profess'upon which the child support award is predicated.

-- Senate Bill 217 allowed the licensing agency rulemaking authority to set and collect appropriate fees to cover its costs in holding these licenses.

The Professional and Occupational Licensing Bureau is not opposed to suspending the licenses of deadbeat parents in order to insure that their children are provided for. In fact staff members of the Department of Commerce and the Child Support Enforcement Division worked together on Senate Bill 217. ~~It would be the suggestion of the Professional and Occupational Licensing Bureau that House Bill 482 be amended, however, to strike the coordination clause in Section 14 to allow Senate Bill 217 to take effect.~~ The ideas and thoughts of the people responsible for administering the professional and occupational licensing in this state are contained in Senate Bill 217.

~~In the alternative,~~ The Professional and Occupational Licensing Bureau would ask that you consider certain amendments to make this bill more consistent with Senate Bill 217.

AMENDMENTS TO HB 482
OFFERED BY THE DEPARTMENT OF COMMERCE
MARCH 24, 1993

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 5
DATE 3-25-93
FILE NO. HB482

1. Page 2, Lines 6 through 7
Following: "license."
Insert: "[Section 11] requires the licensing authority to adopt rules necessary for the implementation and administration of [Section 11]."
2. Page 20, Lines 5-7
Strike: Subsection 3 in its entirety.
Renumber: subsequent subsections.
3. Page 21, Line 13
Following: "license."
Insert: NEW SECTION. Section 9 Nondisciplinary suspension for failure to pay child support. Notwithstanding any other provisions of this title, the department of social and rehabilitative services has the authority to suspend a license under [Sections 1 through 13] without any action by the licensing authority. The licensing authority shall, upon receipt of an order issued by the support enforcement entity, suspend the license of the named individual. The suspension must be nondisciplinary for professional or occupational licenses and the provisions of 2-4-631 do not apply.
Renumber: following sections.
4. Page 23, Line 15.
Following: "12]."
Insert: "Fees collected pursuant to this section by a licensing authority with a state special revenue fund must be deposited in the state special revenue fund for the use of the licensing authority to pay the costs of administering [sections 1 through 13]."
5. Page 23, Line 19.
Following: "11]."
Insert: "The licensing authority shall adopt rules necessary for the implementation and administration of [sections 5 through 13]."

THE WONDERFUL WORLD & IT'S DEAD DELUSIONS
(Dead Beat Dads)

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 5

DATE

3-25-93

HB482

By Chuck Braun

Three out of every 5 men, will at some time in their life, lose ~~the~~ ^{particular thing} of importance. It won't be their car keys, their checkbook or the TV remote control. Each of these men will lose their family. Only those who have gone through it could know the depth of devastation these men feel. As if this were not enough, the pain doesn't stop there. They also lose their income and along with that, their freedom. This wonderful world we live in, has somehow arranged to take not only a man's family from him, but also his income. This is the bottom line and the final outcome. Where's the Justice in this?

Down grading a man's life in this fashion is a result of the callused norms of today's society. A selfish and reckless disregard for the feelings of others is at the core of these inequities. Selfishness underscores lack of commitment; societies attitude toward marriage. If a selfish individual perceives he or she can make life a little better for themselves through divorcement, they will do so. If a person trades off his or her family for a perceived gain, this person should justifiably pay the price. Why do you suppose women are most often the perpetrators of the tradeoff? Basic economics; they have more to gain, more often than do men. Society generally considers women to be the best caretakers for children. Therefore, as a rule, they get the children and the father pays for what the mother benefits from. In a communistic society people pay for what others benefit from. In a free society, people pay for what they personally benefit from. Divorced fathers have their resources stolen from them by our government. This leaves them with little resources to start another family. Fathers have a right to have a family and they have a God given Right to support that family with the fruits of their own labor. The Communist return a portion of their plunder to it's people; the same as a father might receive help from his new spouse or from fathers who were previously a part of that family.

The father is often not respected by his children, simply because the mother typically teaches the children to be disrespectful. If a person takes money from another whom he does not respect, he is using that person. There is no difference between this situation and slavery. There is no difference between this practice and those which took place before the civil war. Neither will there be a difference in the outcome.

The political trends to further enslave the one-time head of households, are sweeping the country. Montana is a forerunner. It is no coincidence that Montana is also in economic trouble. Again history is repeating itself, when economic needs are satisfied by means of slavery. If the government wants to support people who refuse to work, that's their decision. However, they do not have the right to foster slavery, as a solution to the consequences of these policies.

Some of these modern slaves don't understand the wrongful nature of their plight. The black slaves had to be taught of their right to be free; and they were taught successfully. Today's slaves will be taught and freedom promoted. The wrongful political trends that are now sweeping the country will certainly enhance the promotion.

The fight has already begun and it has yet to escalate. Men who put their lives on the line in VietNam to protect the freedom of others, will not let these things happen to them without recourse. Presently, judges and lawyers are being shot to death as a consequence to these immoral laws. The time will come when every father who is both disrespected and robbed, will be moved to action. These consequences

DATE 3-25-93

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: H.B. 474 Peterson

H.B. 482 Bohlinger H.B. 576 Endy

Name	Representing	Bill No	Check One	
			Support	Oppose

STEVE MELOY	Commerce	HB 482	✓	
Kate Cholewa	MIT Women's Lobby	482	X	
Peter Funk	Dept. of Justice	HB 482	✓	
Mumford	SED	HB 482	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

HB 474, 482, 576

F10

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 26, 1993, at 10:06 a.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Bruce Crippen (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. David Rye (R)
Sen. Tom Towe (D)

Members Excused: NONE

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: NONE
Executive Action: HB 468
HB 416
HB 411
HB 228
HB 396
HB 216
HB 278
HB 525
HB 346
HB 157
HB 245
HB 474

EXECUTIVE ACTION ON HB 216

Motion:

The motion to amend HB 416 CARRIED with Senators Crippen, Brown, and Harp voting NO.

Motion/Vote:

Senator Bartlett moved HB 416 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senators Brown, Crippen, and Harp voting NO.

EXECUTIVE ACTION ON HB 482

Discussion:

Amy Pfeifer, Child Support Enforcement Division, explained amendment HB048201.AEM and amendment hb048201.avl. (Exhibit #9 and Exhibit #10)

Motion:

Senator Halligan moved to AMEND HB 482. (hb048201.avl)

Discussion:

Senator Towe asked Ms. Pfeifer about items #2 through #4 on amendment hb048201.avl. Ms. Pfeifer said the language was taken out of SB 217, which was the Department of Commerce's bill. Ms. Pfeifer said the Department of Commerce wanted to make sure the amendments were included in HB 482 because if it passes SB 217 would be void.

Senator Towe asked Ms. Pfeifer about the difference between SB 217 and HB 482. Ms. Pfeifer said HB 482 would expand the concept of SB 217. SB 217 only addressed occupational licenses issued by the Department of Commerce under title 47. HB 482 would address any state issued licenses, registrations, or certificates.

Senator Towe asked Ms. Pfeifer asked about SB 217. Ms. Pfeifer said SB 217 was concurred in as amended by the House Judiciary Committee. Ms. Pfeifer said SB 217 had not gone to the House floor.

Senator Doherty suggested TABLING HB 482 in order to get amendments at a later date.

Motion:

Senator Doherty made a substitute motion to TABLE HB 482.

Discussion:

Senator Grosfield told the Committee he would support the motion to TABLE HB 482 because he would like to propose some amendments. Senator Grosfield said he did not want to kill HB 482, but suggested moving the bill to the end of the list of executive

action to be taken on this date.

Senator Halligan said he would withdraw his motion to amend HB 482 to wait for further amendments before the end of executive session on this date.

Senator Doherty withdrew his motion to TABLE HB 482.

Motion:

Senator Doherty moved that HB 482 be the last bill to be considered during this executive session.

Discussion:

Senator Halligan WITHDREW his motion to amend HB 482.

EXECUTIVE ACTION ON HB 245

Discussion:

Senator Towe explained amendment hb024504.avl. (Exhibit #11)

Motion:

Senator Towe moved to AMEND HB 245.

Discussion:

Chair Yellowtail asked Rep. Kadas to comment on amendment hb023504.avl. Rep. Kadas supported the amendment because it clarifies the bill and makes it easier to read.

Chair Yellowtail asked Jim Parker, Montana People's Action to comment on the amendment. Mr. Parker supported the amendment.

Chair Yellowtail asked Mr. Greg Van Horssen, Montana Landlords Association, to comment on the amendment. Mr. Van Horssen said the Montana Landlords Association does not concur with the amendments.

Senator Blaylock asked Senator Towe about playing loud music at a mobile home park. Senator Towe said loud music would have a significant adverse affect on a mobile home court. Senator Towe said 70-24-321 states that the individuals must conduct themselves in a manner that would not disturb their neighbors peaceful enjoyment of the premises. Therefore, the tenant could be evicted after three or more violation, even if there is not a rule in the park about load music.

Chair Yellowtail asked Senator Towe about sub 2. Senator Towe said sub 2 states that a tenant may not destroy, deface, damage, impair, or remove any part of the premises or permit any person to do so. Senator Towe said that should be a one time violation.

ROLL CALL

SENATE COMMITTEE

Judiciary

DATE 3-26-93

NAME	PRESENT	ABSENT	EXCUSED
Senator Yellowtail	X		
Senator Doherty	X		
Senator Brown	X		
Senator Crippen	X		
Senator Grosfield	X		
Senator Halligan	X		
Senator Harp	X		
Senator Towe	X		
Senator Bartlett	X		
Senator Franklin	X		
Senator Blaylock	X		
Senator Rye	X		

FC8

Attach to each day's minutes

Amendments to House Bill No. 482
Third Reading Copy

Requested by the Department of Health and Environmental Sciences
For the Senate Judiciary Committee

Prepared by Eddy McClure
March 26, 1993

1. Page 20, line 3.

Following: "hearing"

Strike: "by"

Insert: "involving"

2. Page 20, line 11.

Following: "license"

Insert: "must be implemented by the licensing authority and"

3. Page 21, line 14.

Following: line 13

Insert: "(9) To the extent that inconsistencies exist between
[sections 5 through 12] and the procedural requirements for
suspension of a license issued by the department of health
and environmental sciences, [sections 5 through 12]
supercedes those requirements."

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 9

DATE 3-26-93

BILL NO. HB482

Amendments to House Bill No. 482
Third Reading Copy

Requested by Department of Commerce
For the Committee on Judiciary

Prepared by Valencia Lane
March 25, 1993

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 10

DATE 3-26-93

BILL NO. HB482

1. Page 1, line 17.

Following: "11]"

Insert: "and [section 13] requires the licensing authority to
adopt rules necessary for the implementation and
administration of [sections 5 through 13]"

2. Page 20, lines 5 through 7.

Strike: subsection (3) in its entirety

Renumber: subsequent subsections

3. Page 21, line 14.

Following: line 13

Insert: "NEW SECTION. Section 9. Nondisciplinary suspension for
failure to pay child support. Notwithstanding any other
provision of this title, the department of social and
rehabilitation services has the authority to suspend a
license under [sections 5 through 13] without any action by
the licensing authority. The licensing authority shall,
upon receipt of an order issued by the support enforcement
entity, suspend the license of the named individual. The
suspension must be nondisciplinary for professional or
occupational licenses, and the provisions of 2-4-631 do not
apply."

Renumber: subsequent sections

4. Page 23, line 15.

Following: "12]."

Insert: "Fees collected pursuant to this section by a licensing
authority with a state special revenue fund must be
deposited in the state special revenue fund for the use of
the licensing authority to pay the costs of administering
[sections 5 through 13]."

5. Page 23, line 19.

Following: "11]."

Insert: "The licensing authority shall adopt rules necessary for
the implementation and administration of [sections 5 through
13]."

6. Page 1, line 14.

Page 19, line 12.

Page 21, line 10.

Page 23, lines 13, 15, and 24.

Page 24, lines 2 and 5.

Strike: "12"

Insert: "13"

MINUTES

**MONTANA SENATE
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON JUDICIARY

Call to Order: By Senator Bill Yellowtail, on March 27, 1993, at
3:10 p.m.

ROLL CALL

Members Present:

Sen. Bill Yellowtail, Chair (D)
Sen. Steve Doherty, Vice Chair (D)
Sen. Sue Bartlett (D)
Sen. Chet Blaylock (D)
Sen. Bob Brown (R)
Sen. Eve Franklin (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. John Harp (R)
Sen. Tom Towe (D)

Members Excused: Sen. Crippen, Sen. Rye

Members Absent: NONE

Staff Present: Valencia Lane, Legislative Council
Rebecca Court, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: NONE
Executive Action: HB 405
HB 121
HB 323
HB 335
HB 482
HB 576
HB 216

EXECUTIVE ACTION ON HB 405

Discussion:

Senator Towe explained amendment hb040504.av1.

Motion:

Motion:

Senator Towe moved to AMEND HB 335. (Exhibit #7)

Discussion:

Senator Towe explained amendment hb033502.avl.

Vote:

The motion to amend HB 335 CARRIED UNANIMOUSLY.

Motion:

Senator Bartlett moved to AMEND HB 335. (Exhibit #8)

Discussion:

Senator Bartlett explained amendment hb033503.avl.

Vote:

The motion to amend HB 335 CARRIED UNANIMOUSLY.

Motion/Vote:

Senator Harp moved to TABLE HB 335. The motion CARRIED with Senators Bartlett, Brown, and Blaylock voting NO.

EXECUTIVE ACTION ON HB 482

Motion:

Senator Grosfield moved to AMEND HB 482. (Exhibit #9)

Discussion:

Senator Grosfield explained amendment hb048201.ajm.

Vote:

The motion to amend CARRIED UNANIMOUSLY.

Motion:

Senator Grosfield moved HB 482 BE CONCURRED IN AS AMENDED.

Motion:

Senator Harp made a substitute motion to TABLE HB 482.

Discussion:

Senator Franklin asked Senator Harp his reasons for wanting to table HB 482. Senator Harp did not feel HB 482 was cleaned up

enough to pass out of Committee.

Chair Yellowtail supported the motion to table. Chair Yellowtail told the Committee that the amendments removed most of the intent of HB 482.

Senator Grosfield feels HB 482 is important because of the section dealing with civil contempt for failure to pay support and seizing all forms of licenses.

Senator Towe supported the motion to table. Senator Towe feels that seizing peoples licenses would be more vindictive than constructive.

Senator Bartlett said in a number of instances the absence of child support payments is vindictive. Some people who are capable of paying refuse and as a consequence, more people are on welfare. Senator Bartlett said taking away peoples licenses would not be vindictive.

Vote:

The motion to table HB 482 FAILED by Roll Call Vote.

Vote:

The Be Concurred In As Amended motion CARRIED by Roll Call Vote.

EXECUTIVE ACTION ON HB 576

Motion:

Senator Grosfield moved to TABLE HB 576.

Discussion:

Senator Doherty spoke against the table to motion because he felt that HB 576 was a reasonable amendment.

Chair Yellowtail told the Committee that he was not persuaded by testimony during the hearing that there was a need for HB 576. Chair Yellowtail did not think any problems had arisen that needed to be addressed by a constitutional amendment, therefore he supported the motion to table HB 576.

Motion:

The motion to table CARRIED with Senators Towe and Doherty voting NO.

Judiciary

DATE 3-27-9

FC8

Attach to each day's minutes

ROLL CALL VOTE

Judiciary

BILL NO.

HB
TO. 482

DATE 3-27-93

TIME 3:51

A.M.

(P.M.

NAME _____

YES

NO

[illegible]

Rebecca Cusset

SECRETARY

Bill Yellowtail

CHAIR

MOTION: for HB 482 BCIAA.

ROLL CALL VOTE

SENATE COMMITTEE Judiciary

BILL NO. HB482

DATE 3-27-93

TIME 3:50

A.M. (P.M.)

NAME

YES

NO

[illegible]

Rebecca Loust
SECRETARY

Bill Yellowtail
CHAIR

MOTION: to table HB 482 failed.

Amendments to House Bill No. 482
Third Reading Copy

Requested by Sen. Grosfield
For the Committee on the Judiciary

Prepared by John MacMaster
March 26, 1993

1. Title, lines 5 through 7.
Strike: "REQUIRING" on line 5 through "SERVICES;" on line 7
2. Title, line 10.
Strike: "; AND" through "MCA"
3. Page 1, line 14.
Strike: "4 and 12"
Insert: "2 and 10"
4. Page 1, line 16.
Strike: "4"
Insert: "2"
5. Page 1, line 17.
Strike: "11"
Insert: "9"
6. Page 5, lines 16, 17, and 18.
Following: "(a)" on line 16, "(b)" on line 17, and "(c)" on line 18
Insert: "not more than"
7. Page 6, line 21 through line 4 of page 12.
Strike: sections 2 and 3 in their entirety
Renumber: subsequent sections
8. Page 14, line 22.
Strike: "right or"
9. Page 13, line 4.
Page 19, line 12.
Page 20, lines 5 and 6.
Page 21, line 10.
Page 23, lines 13 and 15.
Page 23, lines 18 and 19.
Page 23, line 24.
Page 24, lines 1 and 2.
Page 24, line 5.
Strike: "5 through 12"
Insert: "3 through 10"
10. Page 17, lines 19 and 22.
Page 20, line 1.
Page 21, line 16.
Strike: "7"

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 9
DATE 3-27-93
BILL NO. HB482

Insert: "5"

11. Page 23, lines 21 and 23.

Strike: "4"

Insert: "2"

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 29, 1993

Page 2 of 2
March 29, 1993

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration House Bill No. 482 (third reading copy -- blue), respectfully report that House Bill No. 482 be amended as follows and as so amended be concurred in.

Signed: Wm Yellowtail
Senator William "Bill" Yellowtail, Chair

That such amendments read:

1. Title, lines 5 through 7.
Strike: "REQUIRING" on line 5 through "SERVICES;" on line 7
Insert: "AND"
2. Title, line 10.
Strike: "; AND" through "MCA"
3. Page 1, line 14.
Strike: "4 and 12"
Insert: "2 and 10"
4. Page 1, line 16.
Strike: "4"
Insert: "2"
5. Page 1, line 17.
Strike: "11"
Insert: "9"
6. Page 5, line 16.
Following: "(a)"
Insert: "not more than"
7. Page 5, line 17.
Following: "(b)"
Insert: "not more than"
8. Page 5, line 18.
Following: "(c)"
Insert: "not more than"
9. Page 6, line 21 through line 4 of page 12.
Strike: sections 2 and 3 in their entirety
Renummer: subsequent sections

10. Page 14, line 22.
Strike: "right or"

11. Page 13, line 4.
Page 19, line 12.
Page 20, lines 5 and 6.
Page 21, line 10.
Page 23, lines 13 and 15.
Page 23, lines 18 and 19.
Page 23, line 24.
Page 24, lines 1 and 2.
Page 24, line 5.
Strike: "5 through 12"
Insert: "3 through 10"

12. Page 17, lines 19 and 22.
Page 20, line 1.
Page 21, line 16.
Strike: "7"
Insert: "5"

13. Page 23, lines 21 and 23.
Strike: "4"
Insert: "2"

-END-

AM Amd. Coord.
Sec. of Senate

Rye
Senator Carrying Bill

701253SC.San

SENATE

HB 482
701253SC.San

SENATE COMMITTEE OF THE WHOLE AMENDMENT

March 31, 1993
Page 2 of 2

March 30, 1993 10:45 pm

Mr. Chairman: I move to amend House Bill No. 482 (third reading copy -- blue).

ADOPT

REJECT

Signed: _____

Senator Mike Halligan

That such amendments read:

1. Page 1, line 14.
Page 13, line 4.
Page 19, line 12.
Page 21, line 10.
Page 23, lines 13, 15, and 24.
Page 24, lines 2 and 5.
Strike: "12"
Insert: "13"
2. Page 1, line 17.
Strike: "11]."
Insert: "12] and [section 13] requires the licensing authority to adopt rules necessary for the implementation and administration of [sections 5 through 12]."
3. Page 20, line 3.
Strike: "by"
Insert: "involving"
4. Page 20, lines 5 through 7.
Strike: subsection (3) in its entirety
Renumber: subsequent subsections
5. Page 20, line 11.
Following: "license"
Insert: "must be implemented by the licensing authority and"
6. Page 21, line 14.
Following: line 13
Insert: "(8) To the extent that inconsistencies exist between [sections 5 through 13] and the procedural requirements for suspension of a license issued by the department of health and environmental sciences, [sections 5 through 13] supercede those requirements."

NEW SECTION. Section 9. Nondisciplinary suspension for failure to pay child support. Notwithstanding any other provision of this title, the department has the authority to suspend a license under [sections 5 through 13] without any action by the licensing authority. The licensing authority shall, upon receipt of an order issued by the support enforcement entity, suspend the license of the named individual. The suspension must be nondisciplinary for professional or occupational licenses, and the provisions of 2-4-631 do not apply."

Renumber: subsequent sections

7. Page 23, line 15.

Following: "12]."

Insert: "Fees collected pursuant to this section by a licensing authority with a state special revenue fund must be deposited in the state special revenue fund for the use of the licensing authority to pay the costs of administering [sections 5 through 13]."

8. Page 23, line 19.

Strike: "11]."

Insert: " 12]. The licensing authority shall adopt rules necessary for the implementation and administration of [sections 5 through 12]."

-END-

HOUSE BILL NO. 482

INTRODUCED BY BOHLINGER, FAGG, KEATING, TOOLE, KADAS, KASTEN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR CIVIL CONTEMPT FOR FAILURE TO PAY SUPPORT; ~~REQUIRING EMPLOYERS, PAYORS, AND UNIONS TO REPORT HIRING INFORMATION TO THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES~~; PROVIDING A PATERNITY ACKNOWLEDGMENT PROCESS; AND PROVIDING FOR THE SUSPENSION OF STATE-ISSUED LICENSES FOR FAILURE TO PAY SUPPORT; ~~AND AMENDING SECTIONS 40-5-403 AND 40-5-443, MCA.~~"

STATEMENT OF INTENT

A statement of intent is required for this bill because [sections ~~4~~ and 2 AND 11] require the department of social and rehabilitation services to adopt rules necessary for the implementation and administration of [sections ~~4~~ 2 through 10] AND [SECTION 11] REQUIRES THE LICENSING AUTHORITY TO ADOPT RULES NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF [SECTIONS 3 THROUGH 10].

The rules may include provisions regarding:

- (1) the provision of reimbursements to hospitals, institutions, and midwives for paternity acknowledgment costs;
- (2) the notice of intent to suspend licenses;
- (3) the hearing procedure used to review the cause for

suspension of a license;

(4) the approval of payment plans agreed to by obligors for payment of support debts;

(5) the determination of circumstances creating a hardship that warrant a stay of action for suspension of a license; and

(6) the procedures for implementing and enforcing an order suspending a license.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Failure to pay support -- civil contempt. (1) For purposes of this section, "support" means child support; spousal support; health insurance, medical, dental, and optical payments; day care expenses; and any other payments due as support under a court or administrative order. Submission of health insurance claims is a support obligation if health insurance coverage is ordered.

(2) If a person obligated to provide support fails to pay as ordered, the payee or assignee of the payee of the support order may petition a district court to find the obligated person in contempt.

(3) The petition may be filed in the district court:

(a) that issued the support order;

(b) of the judicial district in which the obligated

1 person resides; or

2 (c) of the judicial district in which the payee or
3 assignee of the payee resides or has an office.

4 (4) Upon filing of a verified petition alleging facts
5 constituting contempt of the support order, the district
6 court shall issue an order requiring the obligated person to
7 appear and show cause why the obligated person should not be
8 held in contempt and punished under this section.

9 (5) The obligated person is presumed to be in contempt
10 upon a showing that:

11 (a) there is a support order issued by a court or
12 administrative agency of this or another state with
13 jurisdiction to enter the order;

14 (b) the obligated person had actual or constructive
15 knowledge of the order; and

16 (c) the obligated person failed to pay support as
17 ordered.

18 (6) Certified payment records maintained by a clerk of
19 court or administrative agency authorized by law or by the
20 support order to collect support are admissible in a
21 proceeding under this section and are prima facie evidence
22 of the amount of support paid and any arrearages under the
23 support order.

24 (7) Following a showing under subsection (5), the
25 obligated person may move to be excused from the contempt by

1 showing clear and convincing evidence that the obligated
2 person:

3 (a) has insufficient income to pay the arrearages;

4 (b) lacks personal or real property that can be sold,
5 mortgaged, or pledged to raise the needed sum;

6 (c) has unsuccessfully attempted to borrow the sum from
7 a financial institution;

8 (d) has no other source, including relatives, from
9 which the sum can be borrowed or secured;

10 (e) does not have a valid out-of-court agreement with
11 the payee waiving, deferring, or otherwise compromising the
12 support obligation; or

13 (f) cannot, for some other reason, reasonably comply
14 with the order.

15 (8) In addition to the requirement of subsection (7),
16 the obligated person shall also show by clear and convincing
17 evidence that factors constituting the excuse were not
18 occasioned or caused by the obligated person voluntarily:

19 (a) remaining unemployed or underemployed when there is
20 employment suitable to the obligated person's skills and
21 abilities available within a reasonable distance from the
22 obligated person's residence;

23 (b) selling, transferring, or encumbering real or
24 personal property for fictitious or inadequate consideration
25 within 6 months prior to a failure to pay support when due;

(c) selling or transferring real property without delivery of possession within 6 months prior to a failure to pay support when due or, if the sale or transfer includes a reservation of a trust for the use of the obligated person, purchasing real or personal property in the name of another person or entity;

(d) continuing to engage in an unprofitable business or contract unless the obligated person cannot reasonably be removed from the unprofitable situation; or

(e) incurring debts subsequent to entry of the support order that impair the obligated person's ability to pay support.

(9) If the obligated person is not excused under subsections (7) and (8), the district court shall find the obligated person in contempt of the support order. For each failure to pay support under the order, the district court shall order punishment as follows:

(a) NOT MORE THAN 5 days incarceration in the county jail;

(b) NOT MORE THAN 120 hours of community service work;

(c) NOT MORE THAN a \$500 fine; or

(d) any combination of the penalties in subsections (9)(a) through (9)(c).

(10) An order under subsection (9) must include a provision allowing the obligated person to purge the

contempt. The obligated person may purge the contempt by complying with an order requiring the obligated person to:

(a) seek employment and periodically report to the district court all efforts to find employment;

(b) meet a repayment schedule;

(c) compensate the payee for the payee's attorney fees, costs, and expenses for a proceeding under this section;

(d) sell or transfer real or personal property or transfer real or personal property to the payee, even if the property is exempt from execution;

(e) borrow the arrearage amount or report to the district court all efforts to borrow the sum;

(f) meet any combination of the conditions in subsections (10)(a) through (10)(e); or

(g) meet any other conditions that the district court in its discretion finds reasonable.

(11) If the obligated person fails to comply with conditions for purging contempt, the district court shall immediately find the obligated person in contempt under this section and impose punishment.

(12) A proceeding under this section must be brought within 3 years of the date of the last failure to comply with the support order.

Section 2.--Section 40-5-403, MCA, is amended to read:--
"40-5-403.--Definitions.--As--used--in--this--part,--the

1 following definitions apply:

2 {1}--"Alternative arrangement" means a written agreement
3 signed by the obligor and obligee, and signed by the
4 department in the case of an assignment of rights under
5 53-2-613, that has been approved and entered in the record
6 of the court or administrative authority issuing or
7 modifying the support order.

8 {2}--"Department" means the department of social and
9 rehabilitation services provided for in 2-15-2201.

10 {3}--"Income" means any form of periodic payment to a
11 person, including earnings and wages. However, income does
12 not include:

13 (a) any amount required by law to be withheld, other
14 than creditor claims, including federal, state, and local
15 taxes and social security, and

16 (b) any amounts exempted from judgment, execution, or
17 attachment by federal or state law.

18 {4}--"Obligee" means either a person to whom a duty of
19 support is owed or a public agency of this or another state
20 to which a person has assigned the right to receive current
21 and accrued support payments.

22 {5}--"Obligor" means a person who owes a duty to make
23 payments under a support order.

24 {6}--"Payor" means any payor of income to an obligor on
25 a periodic basis and includes any person, firm, corporation,

1 association, employer, trustee, political subdivision, state
2 agency, or any agent thereof, who is subject to the
3 jurisdiction of the courts of this state under Rule 4B of
4 the Montana Rules of Civil Procedure.

5 {7}--"Support order" means an order of the district
6 court of the state of Montana, an order of a court of
7 appropriate jurisdiction of another state, an administrative
8 order established pursuant to proceedings under part 2 of
9 this chapter, or an order established by administrative
10 hearing process of an agency of another state with functions
11 similar to those of the department set forth in part 2 of
12 this chapter, that provides a set and determinable amount
13 for temporary or final periodic payment of funds for the
14 support of a child. Support order further includes the
15 following:

16 (a) an order for reimbursement of public assistance
17 money paid by a public agency for the benefit of a minor
18 child;

19 (b) an order for maintenance to be paid to a former
20 spouse when the former spouse is the custodial parent of a
21 child for whom child support is awarded under the same
22 order; and

23 (c) an order requiring payment of interest due on
24 unpaid judgments for child support.

25 {8}--"Union" means a labor union, union, local union,

1 affiliate, or union hiring hall."

2 **Section 3.** Section 40-5-443, MCA, is amended to read:--

3 "40-5-443. Payers to provide information --- exemption
4 from liability: (1) Upon notice by the department and except
5 as provided in subsections (2) and (3) SUBSECTION (2), an
6 employer or payor doing business in this state shall report
7 to the department:

8 (a) the hiring of an individual who resides or works in
9 this state;

10 (b) a contract or subcontract with an individual who
11 resides or works in this state; and

12 (c) the rehiring or return to work of an employee,
13 contractor, or subcontractor;

14 (2) An employer is not required to report the hiring of
15 an individual who the employer anticipates will be employed
16 for less than 1 month or will be sporadically employed for
17 less than 350 hours during any 6-month period;

18 (3) An employer or payor is not required to report
19 under this section if the employer employs or contracts with
20 fewer than 10 persons;

21 (4)(3) A union operating in this state shall, upon
22 notice by the department, provide the department with
23 information concerning the employment of its members;

24 (5)(4) An employer, payor, or union required to report
25 under this section shall submit to the department monthly

1 reports containing its name, address, and employment
2 security reference number or unified business identifier
3 number and the name, last known residential address, social
4 security number, and date of birth of each employee that was
5 hired or rehired or that returned to work during the
6 preceding month. The report may be made in writing or by
7 computer on a form or in a format supplied by the department
8 or by other means acceptable to the department;

9 (6)(5) The department may retain the reported
10 information concerning an employee, contractee, or member
11 only if the department is responsible for establishing,
12 enforcing, or collecting a support obligation of that
13 person. THE INFORMATION MUST BE KEPT CONFIDENTIAL BY THE
14 DEPARTMENT AND MAY NOT BE DISSEMINATED BY IT. If the person
15 does not owe a support obligation, the department may not
16 create a record regarding the person and the information
17 must be promptly destroyed;

18 (1)(7)(6) For the purposes of this part, upon Upon
19 written request by the department, a present or former
20 employer, payor, or former payor and any labor or union of
21 which the obligor a person is or may have been a an
22 employee, contractee, or member shall provide the department
23 with the following information, if known, regarding the
24 obligor person:

25 (a) last known residential address;

(b) ~~--social-security-number;~~
 (c) ~~--dates-of-employment-or-union-membership or-dates-of~~
~~the-term-of-the-contract;~~
 (d) ~~--amounts-of-wages, salaries, commissions, and--other~~
~~earnings--paid--to-the-obligor person during-any-period-when~~
~~the-department-provided-support-enforcement-services, and~~
 (e) ~~--whether--health--insurance--coverage--is---or---was~~
~~available--to--the--obligor person-and-the-person's-children~~
~~through-the employer, payor, or-union-and, if-so;~~
 (i) ~~--the-name-of-the-insurer-or-health-care-provider;~~
 (ii) ~~--the-policy-numbers-or-other-identifiers, and~~
 (iii) ~~--the-persons-covered;~~
 (f) ~~--the-location-of-the-job-site, and~~
 (g) ~~--any-occupational-or--professional--affiliations--or~~
~~licenses-required-for-the-employment-or-contract.~~
 (8)(7) ~~--The-department-shall-give-an-employer, payor, or~~
~~union--failing--to--report--as--required--by--this-section-a~~
~~written--warning,--Upon--further--failure--to--report,--the~~
~~department--may--impose-a-civil-penalty-not-to-exceed-\$17000~~
~~for-each-month-for-each-reportable--person,--The-department~~
~~shall--adopt--rules, under-Title-2, chapter-4, and-40-5-405,~~
~~stating--administrative---hearing---and---other---procedures~~
~~implementing-this-subsection;~~
 (9)(8) ~~--To--cover--the-report-costs, an-employer, payor,~~
~~or-union-required-to-report-under-this--section--may--charge~~

and-withhold-from-the-wages-or-other-income-of-each-reported
 person--a--fee--not-to-exceed \$5 \$3 for-each-report-covering
 the-person;

(2)(10)(9) ~~--A An-employer, payor, or-union who-discloses~~
~~information--to--the--department--in--compliance--with--this~~
~~section-is-exempt-from-any-liability-to-the-obligor reported~~
~~person that-may-result-from-such the disclosure."~~

NEW SECTION. **Section 2. Paternity acknowledgment.** (1)

Upon the birth of a child to a woman unmarried at the time
 of birth, the administrator or person in charge of a
 hospital or other institution in which the birth occurs or
 the midwife who attends the birth shall:

(a) provide an opportunity for the child's mother and
 alleged father to complete an acknowledgment of parentage
 pursuant to 40-6-105;

(b) provide written information, furnished by the
 department, describing the rights and responsibilities of
 parentage, the benefits of having a child's paternity
 established, and the child's right to receive support; and

(c) forward a copy of an acknowledgment signed by the
 mother and the father to the department.

(2) The hospital, institution, or midwife is entitled
 to reimbursement for reasonable costs of obtaining an
 acknowledgment. The department shall establish by rule the
 amount of reasonable costs, not to exceed the amount for

1 which federal financial participation is available, and the
2 procedures for claiming reimbursement.

3 (3) Hospitals, institutions, and midwives shall use
4 forms prescribed by the department for the acknowledgment of
5 paternity.

6 NEW SECTION. Section 3. Definitions. As used in
7 [sections 5--through--12 3 THROUGH 11], the following
8 definitions apply:

9 (1) (a) "Child" means:

10 (i) a person under 18 years of age who is not
11 emancipated, self-supporting, married, or a member of the
12 armed forces of the United States;

13 (ii) a person under 19 years of age who is still in high
14 school;

15 (iii) a person who is mentally or physically
16 incapacitated when the incapacity began prior to that person
17 reaching 18 years of age; and

18 (iv) in IV-D cases, a person for whom:

19 (A) support rights are assigned under 53-2-613;

20 (B) a public assistance payment has been made;

21 (C) the department is providing support enforcement
22 services under 40-5-203; or

23 (D) the department has received a referral for
24 interstate services from an agency of another state under
25 the provisions of the Uniform Reciprocal Enforcement of

1 Support Act or under Title IV-D of the Social Security Act.

2 (b) The term may not be construed to limit the ability
3 of the department to enforce a support order according to
4 its terms when the order provides for support extending
5 beyond the time the child reaches 18 years of age.

6 (2) "Delinquency" means a support debt or support
7 obligation due under a support order in an amount greater
8 than or equal to 6 months' support payments as of the date
9 of service of a notice of intent to suspend a license.

10 (3) "Department" means the department of social and
11 rehabilitation services.

12 (4) "IV-D case" means a case in which the department is
13 providing support enforcement services as a result of:

14 (a) an assignment of support rights under 53-2-613;

15 (b) a payment of public assistance;

16 (c) an application for support enforcement services
17 under 40-5-203; or

18 (d) a referral for interstate services from an agency
19 of another state under the provisions of the Uniform
20 Reciprocal Enforcement of Support Act or under Title IV-D of
21 the Social Security Act.

22 (5) "License" means a license, certificate,
23 registration, or authorization issued by an agency of the
24 state of Montana granting a person a right or privilege to
25 engage in a business, occupation, or profession or any other

right--or privilege that is subject to suspension, revocation, forfeiture, or termination by the licensing authority prior to its date of expiration.

(6) "Licensing authority" means any department, division, board, agency, or instrumentality of this state that issues a license.

(7) "Obligee" means:

(a) a person to whom a support debt or support obligation is owed; or

(b) a public agency of this or another state that has the right to receive current or accrued support payments or that is providing support enforcement services under this chapter.

(8) "Obligor" means a person who owes a duty of support.

(9) "Order suspending a license" means an order issued by a support enforcement entity to suspend a license. The order must contain the name of the obligor, the type of license, and, if known, the social security number of the obligor.

(10) "Payment plan" includes but is not limited to a plan approved by the support enforcement entity that provides sufficient security to ensure compliance with a support order and that incorporates voluntary or involuntary income withholding under part 3 or 4 of this chapter or a

similar plan for periodic payment of a support debt and, if applicable, current and future support.

(11) "Support debt" or "support obligation" means the amount created by:

(a) the failure to provide support to a child under the laws of this or any other state or a support order; or

(b) a support order for spousal maintenance if the judgment or order requiring payment of maintenance also contains a judgment or order requiring payment of child support for a child for whom the person awarded maintenance is the custodial parent.

(12) "Support enforcement entity" means:

(a) in IV-D cases, the department; or

(b) in all other cases, the district court that entered the support order or a district court in which the support order is registered.

(13) "Support order" means an order providing THAT PROVIDES a determinable amount for temporary or final periodic payment of a support debt or support obligation AND THAT MAY INCLUDE PAYMENT OF A DETERMINABLE OR INDETERMINABLE AMOUNT FOR INSURANCE COVERING THE CHILD issued by:

(a) a district court of this state;

(b) a court of appropriate jurisdiction of another state, an Indian tribe, or a foreign country;

(c) an administrative agency pursuant to proceedings

1 under Title 40, chapter 5, part 2; or

2 (d) an administrative agency of another state with a
3 hearing function and process similar to those of the
4 department.

5 NEW SECTION. Section 4. Notice of intent to suspend
6 license. (1) Upon the petition of an obligee alleging the
7 existence of a delinquency, a support enforcement entity may
8 issue a notice of intent to suspend a license.

9 (2) The notice must be served upon the obligor
10 personally or by certified mail and may:

11 (a) in a IV-D case, be incorporated into any notice
12 served under Title 17, chapter 4, part 1, or Title 40,
13 chapter 5, part 2 or 4;

14 (b) in all other cases, be combined with any other
15 enforcement proceeding.

16 (3) The notice must state that the obligor's license
17 will be suspended 60 days after service unless within that
18 time the obligor:

19 (a) pays the entire support debt stated in the notice;

20 (b) enters into a payment plan approved by the support
21 enforcement entity; or

22 (c) appears and shows cause in a hearing before the
23 support enforcement entity under [section 7 5] that
24 suspension of a license is not appropriate.

25 (4) In a IV-D case, the notice must advise the obligor

1 that hearings conducted under [section 7 5] are subject to
2 the contested case provisions of the Montana Administrative
3 Procedure Act.

4 NEW SECTION. Section 5. Hearing -- order suspending
5 license. (1) To show cause why suspension of a license would
6 not be appropriate, the obligor shall request a hearing from
7 the support enforcement entity that issued the notice of
8 intent to suspend the license. The request must be made
9 within 60 days of the date of service of the notice.

10 (2) Upon receipt of a request for hearing from an
11 obligor, the support enforcement entity shall schedule a
12 hearing for the purpose of determining if suspension of the
13 obligor's license is appropriate. The support enforcement
14 entity shall stay suspension of the license pending the
15 outcome of the hearing.

16 (3) The only issues that may be determined in a hearing
17 under this section are the amount of the support debt or
18 support obligation, if any, whether or not a delinquency
19 exists, and whether or not the obligor has entered into a
20 payment plan.

21 (4) If an obligor fails to respond to a notice of
22 intent to suspend a license, fails to timely request a
23 hearing, or fails to appear at a regularly scheduled
24 hearing, the obligor's defenses, objections, or request for
25 a payment plan must be considered to be without merit and

1 the support enforcement entity shall enter a final decision
2 and order accordingly.

3 (5) If the support enforcement entity determines that
4 the obligor owes a delinquency and that the obligor has not
5 entered into a payment plan, the support enforcement entity
6 shall issue an order suspending the obligor's license and
7 ordering the obligor to refrain from engaging in the
8 licensed activity. The support enforcement entity shall send
9 a copy of the order suspending a license to the licensing
10 authority and the obligor.

11 (6) The determinations of the department under this
12 section are a final agency decision and are subject to
13 judicial review under 40-5-253 and the Montana
14 Administrative Procedure Act.

15 (7) A determination made by the support enforcement
16 entity under [sections 5--through--12 3 THROUGH 11] is
17 independent of any proceeding of the licensing authority to
18 suspend, revoke, deny, terminate, or renew a license.

19 NEW SECTION. Section 6. Suspension, denial, and
20 nonrenewal of licenses. (1) Upon receipt of an order
21 suspending a license, a licensing authority shall implement
22 the suspension of the license by:

23 (a) determining if it has issued a license to the
24 obligor whose name appears on the order;

25 (b) entering the suspension on the appropriate records;

1 (c) reporting the suspension as appropriate; and

2 (d) if required by law, demanding surrender of the
3 suspended license.

4 (2) An order issued by a support enforcement entity
5 under [section 7 5] suspending a license must be processed
6 by the licensing authority without an additional review or
7 hearing by INVOLVING the licensing authority concerning
8 suspension of the license.

9 ~~{3}--During--the--term--of--a--suspension--under--{sections--5~~
10 ~~through--12 3-THROUGH-10-13--the--licensing--authority--may--not~~
11 ~~issue--or--renew--the--obligor's--license--~~

12 ~~{4}{3}~~ Notwithstanding the provisions of any other law
13 setting terms of suspension, revocation, denial,
14 termination, or renewal of a license, an order issued by a
15 support enforcement entity suspending a license MUST BE
16 IMPLEMENTED BY THE LICENSING AUTHORITY AND continues until
17 the support enforcement entity advises the licensing
18 authority that the suspension has been stayed or terminated.

19 ~~{5}{4}~~ In the event that a license is suspended, any
20 funds paid by the obligor to the licensing authority for
21 costs related to issuance, renewal, or maintenance of a
22 license may not be refunded to the obligor.

23 ~~{6}{5}~~ Unless an order staying suspension of a license
24 is in effect, an obligor who continues to engage in the
25 business, occupation, profession, or other licensed activity

1 while the license is suspended under this section is guilty
 2 of a misdemeanor and upon conviction shall be punished by a
 3 fine of not less than \$250 or more than \$500 or by
 4 imprisonment in the county jail for a term not to exceed 6
 5 months, or both. Upon conviction of a second or subsequent
 6 violation, the obligor shall be punished by a fine of not
 7 less than \$500 or more than \$2,000 or by imprisonment in the
 8 county jail for a term not to exceed 1 year, or both. The
 9 support enforcement entity or the licensing authority may
 10 elect the remedy under this section or any other remedy
 11 provided for engaging in a licensed activity without a
 12 license or while the license is suspended.

13 ~~{7}~~(6) The licensing authority is exempt from liability
 14 to the licensee for activities conducted in compliance with
 15 [sections 5-through-12 3 THROUGH 11].

16 ~~{8}~~(7) The licensing authority has no jurisdiction to
 17 modify, remand, reverse, vacate, or stay the order of the
 18 support enforcement entity suspending a license.

19 (8) TO THE EXTENT THAT INCONSISTENCIES EXIST BETWEEN
 20 [SECTIONS 3 THROUGH 11] AND THE PROCEDURAL REQUIREMENTS FOR
 21 SUSPENSION OF A LICENSE ISSUED BY THE DEPARTMENT OF HEALTH
 22 AND ENVIRONMENTAL SCIENCES, [SECTIONS 3 THROUGH 11]
 23 SUPERSEDE THOSE REQUIREMENTS.

24 NEW SECTION. SECTION 7. NONDISCIPLINARY SUSPENSION FOR
 25 FAILURE TO PAY CHILD SUPPORT. NOTWITHSTANDING ANY OTHER

1 PROVISION OF THIS TITLE, THE DEPARTMENT HAS THE AUTHORITY TO
 2 SUSPEND A LICENSE UNDER [SECTIONS 3 THROUGH 11] WITHOUT ANY
 3 ACTION BY THE LICENSING AUTHORITY. THE LICENSING AUTHORITY
 4 SHALL, UPON RECEIPT OF AN ORDER ISSUED BY THE SUPPORT
 5 ENFORCEMENT ENTITY, SUSPEND THE LICENSE OF THE NAMED
 6 INDIVIDUAL. THE SUSPENSION MUST BE NONDISCIPLINARY FOR
 7 PROFESSIONAL OR OCCUPATIONAL LICENSES, AND THE PROVISIONS OF
 8 2-4-631 DO NOT APPLY.

9 NEW SECTION. Section 8. Stay of suspension of license
 10 -- payment plan -- hardship. (1) An obligor may at the time
 11 of the hearing conducted under [section 7 5] or at any time
 12 after the hearing petition the support enforcement entity
 13 for an order staying suspension of the license.

14 (2) The support enforcement entity shall consider the
 15 obligor's petition for a stay separately from any
 16 determination on whether suspension of a license is
 17 appropriate.

18 (3) The support enforcement entity may stay suspension
 19 of a license upon a showing that suspension or continued
 20 suspension of a license would create a significant hardship
 21 to the obligor, to the obligor's employees, to legal
 22 dependents residing in the obligor's household, or to
 23 persons, businesses, or other entities served by the
 24 obligor.

25 (4) A stay terminates upon:

(a) termination of the circumstances upon which a hardship is based;

(b) failure by the obligor to abide by the terms and conditions of a payment plan; or

(c) the date of termination, if any, provided in the order staying suspension of the license.

(5) If the licensing authority has been notified of an order suspending a license, the support enforcement entity shall send a copy of any order staying or reinstating suspension of the license to the licensing authority and the obligor.

(6) (a) Upon receipt of an order staying or reinstating suspension of the license, the licensing authority shall:

(i) enter the information on appropriate records;

(ii) report the action as appropriate; and

(iii) demand surrender of the suspended license or return the reinstated license.

(b) Further action by the licensing authority is not necessary to implement the stay or reinstatement of suspension of the license.

NEW SECTION. Section 9. Termination of order to suspend license. (1) When the support enforcement entity determines that the support debt or support obligation is paid in full, it shall terminate the order suspending the license. The support enforcement entity shall send a copy of

the order terminating the suspension of the license to the licensing authority and the obligor.

(2) Entry of an order terminating suspension of a license does not limit the ability of a support enforcement entity to issue a new order suspending the license of the same obligor in the event of another delinquency.

NEW SECTION. Section 10. Fees. A licensing authority subject to [sections 5-through-12 3 THROUGH 11] may charge the obligor a fee to cover the administrative costs incurred by the licensing authority under [sections 5-through-12 3 THROUGH 11]. FEES COLLECTED PURSUANT TO THIS SECTION BY A LICENSING AUTHORITY WITH A STATE SPECIAL REVENUE FUND MUST BE DEPOSITED IN THE STATE SPECIAL REVENUE FUND FOR THE USE OF THE LICENSING AUTHORITY TO PAY THE COSTS OF ADMINISTERING [SECTIONS 3 THROUGH 11].

NEW SECTION. Section 11. Rulemaking authority. The department shall adopt rules necessary for the implementation and administration of [sections 5-through--11 3 THROUGH 10+]. THE LICENSING AUTHORITY SHALL ADOPT RULES NECESSARY FOR THE IMPLEMENTATION AND ADMINISTRATION OF [SECTIONS 3 THROUGH 10].

NEW SECTION. Section 12. Codification instruction. (1) [Section 4 2] is intended to be codified as an integral part of Title 50, chapter 15, part 2, and the provisions of Title 50, chapter 15, apply to [section 4 2].

1 (2) [Sections 5--~~through-12~~ 3 THROUGH 11] are intended
2 to be codified as an integral part of Title 40, chapter 5,
3 and the provisions of Title 40, chapter 5, apply to
4 [sections 5-~~through-12~~ 3 THROUGH 11].

5 NEW SECTION. **Section 13.** Coordination instruction. If
6 both Senate Bill No. 217 and [this act], containing
7 [sections 5--~~through--12~~ 3 THROUGH 11], are passed and
8 approved, Senate Bill No. 217 is void.

9 NEW SECTION. **Section 14.** Severability. If a part of
10 [this act] is invalid, all valid parts that are severable
11 from the invalid part remain in effect. If a part of [this
12 act] is invalid in one or more of its applications, the part
13 remains in effect in all valid applications that are
14 severable from the invalid applications.

-End-